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MATTERS RELATING TO JOSEPH R. WRIGHT, JR., DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

HEARINGS

BEFORE THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

NINETY-NINTH CONGRESS

FIRST SESSION

MAY 13 AND NOVEMBER 5, 6, 1985

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MATTERS RELATING TO JOSEPH R. WRIGHT, JR., DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

MONDAY, MAY 23, 1985

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The committee met at 1:37 p.m., in room SD-342, Dirksen Senate Office Building, Hon. William V. Roth, Jr., chairman of the committee, presiding.

Present: Senators Roth, Stevens, Rudman, Cochran, Eagleton, and Gore.

OPENING STATEMENT OF CHAIRMAN ROTH

Chairman ROTH. The committee will please come to order. Last Thursday, this committee held hearings on proposals by the Grace Commission for improving management and reducing the cost of Government. Joseph R. Wright, Jr., Deputy Director of the OMB was here to testify on those proposals. At that time, Senator Eagleton expressed an interest in questioning Mr Wright under oath about press reports last week concerning certain actions allegedly taken by Mr. Wright in 1982.

I talked with Senator Eagleton and worked out an arrangement to have such questioning postponed until today.

Based on information contained in the Wall Street Journal and the Washington Post last week, the primary matter appears to be a phone call made by Mr. Wright to a top Department of Energy official on behalf of an oil company headed by Mr. Wright's father that was on the subject of an enforcement dispute in connection with the Government's former price control program.

A related matter of concern alluded to in the Wall Street Journal article is a recent allegation of an Energy Department employee who initiated the case against Mr. Wright's family company that Mr. Wright tried to pressure the employee's boss into disciplining him.

The committee understands that these matters are currently being investigated by the FBI. The purpose of today's meeting is solely to provide an opportunity for Mr. Wright to explain his actions.

Mr. Wright, we appreciate your appearance this afternoon. I believe the best way to proceed is to give you an opportunity to generally describe your actions in these matters. Then I and the other members can question you more specifically.

However, before we proceed, I will give other members of the committee an opportunity to make an opening statement.

Let me say at the outset how important I believe it is that we as a committee proceed in a fair, impartial manner and take care not to prejudge Mr. Wright before he has the opportunity to explain his actions and the facts of the matters have been fully aired.

At this time, I call upon the ranking minority member, Senator Eagleton, for any remarks he may care to make.

Senator EAGLETON. Yes; and then at the appropriate time, I guess Mr. Wright will be sworn in, Mr. Chairman.

Chairman ROTH. That is correct.

OPENING STATEMENT OF SENATOR EAGLETON

Senator EAGLETON. Mr. Chairman, I want to thank you for agreeing to hold this hearing today. I certainly appreciate your cooperation and will try to keep my questions on the mark. The matter before us today, the telephone call by Deputy Director of OMB Joseph R. Wright, Jr., to the Department of Energy's Economic Regulatory Administration, is being investigated, I am told, by the House Energy Subcommittee on Oversight Investigations, by the inspector general of the Department of Energy and by the FBI.

It is not my purpose this afternoon to duplicate or supersede those inquiries. I do point out that Mr. Wright came before us as a witness last week on the Grace Commission report on efficiency in Government and by law, Mr. Wright as Deputy Director of OMB, chairs the President's Council on Integrity and Efficiency. The President's Council on Integrity and Efficiency, the PCIE, is composed of 17 statutory inspectors general, and that all came through this; also the heads the Deputy Attorney General, the Director of OPM and the Executive Assistant Director of Investigation for the FBI. So it is a not insignificant group that Mr. Wright chairs. It was created by President Reagan in 1981.

Under President Reagan, and under Mr. Wright, the PCIE has sought to broaden its authority in what I call its attempt to strengthen the inspector general's program. PCIE, under President Reagan, has sought to coordinate and implement Government policies concerning integrity and efficiency in the Federal Government.

So I think it is appropriate that Mr. Wright be here. My primary concern is the area of Government ethics. Our committee has both legislative and oversight jurisdiction over the Office of Government Ethics. Having served myself for 4 years in the Senate Committee on Ethics, I personally have a longstanding interest in these ethical questions. From what I have read about the matter and from what we have learned through in-person investigation, in talking to witnesses, it appears that there is very clearly an ethical question and a considerable bit more, Mr. Chairman.

We have talked to witnesses whom I expect you will want to call before the committee because it appears very clear to me that there was a "high level Washington intervention" which influenced cases pending before the Department of Energy relating to Anchor Gasoline owned by the family of Joseph R. Wright, and in part owned by Mr. Joseph R. Wright, Jr., himself, and also high level intervention to intervene in a case pertaining to Canal Refining Co., which is owned by the Wright family, as well, and is a subsidiary, we believe, of Anchor.

I don't think that we will be able to conclude this hearing today. But with prompt dispatch, we can proceed to hear from the other available witnesses, the necessary witnesses, the ones I have talked to, all of whom said they are willing to testify and to come to Washington to so do.

At an appropriate time, I would like to read into the record a chronology—maybe now is not the time—of the Wright affair from September 4, 1981 to April 18, 1985 in a chronological form that sets forth what happened with respect to Anchor and Canal, Mr. Wright, Mr. Hanzlik—he is the fellow at DOE, et cetera, because I think it sets out how this whole thing evolved. I would like to read it, but at a time you deem appropriate, Mr. Chairman.

Chairman ROTH. Senator Rudman?

I will take the Senators in the order they came.

OPENING STATEMENT OF SENATOR RUDMAN

Senator RUDMAN. Mr. Chairman, thank you. I will make several comments. First, I am very glad, Mr. Chairman, that you have called the hearing, and I think it is important that this hearing be held, and that if there are other witnesses involved, that they be heard also.

I agree that we ought not to prejudge, but I must say that I have already made a judgment that Mr. Wright used poor judgment in making one phone call. However, that is not enough for me to indicate that Mr. Wright is guilty of anything other than that which is on the record.

When we have other witnesses here, I am frankly not interested in circumstantial evidence or innuendo. What I want to know in the next several weeks is whether or not there has been active intervention on the part of Mr. Wright or others on behalf of his family's corporation, and if there has been, that is a criminal act. If there hasn't been, then Mr. Wright ought to think carefully before picking up the telephone again. And that is what I want to find out here today.

Chairman ROTH. Senator Stevens?

OPENING STATEMENT OF SENATOR STEVENS

Senator STEVENS. Mr. Chairman, I want to echo Senator Rudman.

I have another hearing to attend and I must leave soon.

I hope that the list of witnesses referred to by my good friend from Missouri includes Mr. Gordon Harvey. This doesn't appear to be a normal whistleblower case. The newspaper account makes it look to me very much like the action of a disgruntled person who has been downgraded in the Energy Department.

I want you to know that I have probably dealt more with Mr. Wright than anyone on this committee now for a period of years. I know of no one who has been more meticulous in terms of his dealings with us as Members of the Senate, with my office, in particular, and with staff and other employees of the Senate. I think that hindsight in situations like this is a little better than 20/20, and in all probability, the light in which this phone call has now been illuminated makes it appear to be something like a continuum of time instead of one phone call of about 2 minutes, as I understand it.

I would be very surprised, I can tell my good friend from Missouri and the committee, if Mr. Wright has done anything wrong. I am inclined to share Senator Rudman's position that in retrospect, it doesn't look to have been too smart, but on the other hand, a lot of things we do turn out to be the same way.

I am reminded of the number of phone calls I make downtown every week for constituents, and we are at the mercy of the people we make the call to as to whether they interpret more in the phone call than was intended. I am inclined to think that while clearing the air may be good, I hope the end result of this hearing is not really to try to darken the reputation of Joe, who I think has done an excellent job in the Government so far and has a great future ahead of him. He is probably one of the most hard-working members of the administration that I have ever come in contact with.

But I would like to be on record as requesting, if Senator Eagleton does not, that this sour note blower be called as a witness. Let's find out whether there is anything to this. This isn't the kind of case that we are suddenly developing and the newspaper will report it. This thing has been reported. I read it in Alaska on Friday. It does seem to me that we ought to be very careful about being led down a primrose path by disgruntled employees.

Senator EAGLETON. Could we broaden Senator Stevens' request to include the witnesses I have talked to?

Chairman ROTH. Let me say what the Chair intends to do, which I believe is fair to all parties. We have Mr. Wright here today. We will proceed with the questioning of him. Since this matter just came up last Thursday, at the end of today I intend to instruct the majority staff, and I would assume the minority would want to do the same, to proceed expeditiously in investigating what is relevant so that, in as short a timeframe as practical, we can proceed with whatever other witnesses, such as Mr. Harvey or anyone else we may want to hear from.

Senator Cochran?

Senator COCHRAN. Thank you, Mr. Chairman. I don't have an opening statement. Let me say that I have other commitments today that have been on my calendar for sometime. I will not be able to be here for the entire hearing, but I am interested in the proceeding. I, as others, have just seen the report in the newspaper last Friday about the incident in which we are involved now.

I don't intend to make any judgment about this matter based on this newspaper report or any other one newspaper report, so I am happy that you are having the hearing and that Mr. Wright is here and that we have an opportunity to find out what this is about. I appreciate your calling the hearing. Thank you.

Chairman ROTH. Thank you.

Senator Gore?

OPENING STATEMENT OF SENATOR GORE

Senator GORE. Thank you, Mr. Chairman. I want to congratulate you and Senator Eagleton for convening this proceeding. Waste, fraud, and abuse in Government is one of those rare political issues on which we as office holders can always agree, regardless of our political party. The high standard of Government ethics is crucial to the success of any political system, but especially to a democratic system in which the public's trust in its public employees is a basic assumption and an underpinning of self-government.

That is precisely why the events that have been revealed in the press concerning Mr. Wright have been so disturbing. As the president of the Council on Integrity and Efficiency, Mr. Wright is perhaps the key senior official in the entire system who bears the responsibility for preventing waste, fraud, and abuse.

Indeed, if the events concerning his intervention in behalf of his father's company in which he himself has a personal interest are as described, it is doubly troubling and ironic, because Mr. Wright has basically a good reputation among those charged with rooting out waste, fraud, and abuse.

I have had personal experience, Mr. Chairman, in investigating the Federal Emergency Management Administration last year. It is my understanding that in the midst of that that Mr. Wright was the one responsible for assigning extra investigators within the executive branch to deal with that.

So I am very troubled that these events have taken place. But I have to say that it takes place against a backdrop of the effort to collect oil overcharges which has been an abuse in and of itself of the highest order. We have had a lot of discussion in the press recently about appointees in this administration. I believe this whole episode illustrates what I would refer to as jungle ethics.

A hallmark of this administration is alleged to be a special priority on rooting out waste, fraud, and abuse, but in the situation involving oil overcharge collections, there has been special treatment for many of the companies that are charged with crimes.

Billions of dollars remain to be collected today, and this one telephone call, I think, is only one example of the fixes that have taken place—maybe I am using that word in too broad a sense, but I think it is appropriate—that have taken place to prevent the collection of money that is owed to the public in this country.

I look forward to questioning Mr. Wright this afternoon. I support Senator Eagleton's request that we have other witnesses and look into this matter very thoroughly, because after all, the Grace Commission, which we were looking at last week, recommended that the person in Mr. Wright's position, the President of the Council on Integrity, be given legal responsibility for all of the inspectors general throughout the Government.

If we have an example like this, behavior on the part of the person in that position, I think it is very troubling. I look forward to the proceeding. It seems to be a perfect example of how this committee can execute its responsibilities to examine waste, fraud, and abuse as laid out in the committee's rules.

Chairman ROTH. Thank you, Senator Gore.

Senator Eagleton has an exhibit that he would like to read into the record.

Senator Eagleton. Normally, I wouldn't do this, Mr. Chairman; I would let the exhibit speak for itself, but I think in order for all of us to follow this matter when you deal with these oil overcharges that have been referred to by Senator Gore, you get into some very complex terminology. It is not probably complex to Senator Gore, because he spent 4 years or so in the House pursuing this matter as part of the Congressman Dingell's committee, but to the rest of us who are laymen in the field, we have broken it down in a chronological sense of just what happened in this Wright matter. I will try to read it quickly.

Senator Stevens. Would the Senator yield? Is it possible that we could have copies of what you have and that the witness be able to see it as it is being read so he can make notes, too?

Senator Eagleton. Yes. That is a good idea. Can I start while they are being xeroxed?

Chairman Roth. Do you want to have a chance to examine it first?

Senator Eagleton. I could make it in the nature of an opening statement, of course. It is what I deem to be the chronology of events. It is the same as an opening statement. The witness, of course, is free to dispute any fact alleged in my opening statement. They are trying to xerox them real fast. I will be glad to wait.

Chairman Roth. In the meantime, while we are waiting, why don't I swear in the witness?

As you know, under these circumstances, it is the practice to swear the witness in.

Mr. Wright. Yes, sir.

Chairman Roth. Would you please stand and raise your right hand?

Do you solemnly swear that the testimony you will give before this committee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. Wright. Yes, sir.

Chairman Roth. Thank you. Please be seated.

If there is no objection.

Senator Eagleton. I think Senator Stevens wants to have it before him while I am reading it.

Chairman Roth. Senator Stevens, do you want take a quick look at this?

Would you proceed?

Senator Eagleton. OK. September 4, 1981, three of what are called notices of probable violations—that is a term of art—three of those of petroleum pricing and allocation regulations were consolidated and sent to Anchor Gasoline Co.

Then during the week of December 20, 1981, Mr. Rayburn Hanzlik—and his name is very prominent in this; he is the Administrator of the Economic Regulatory Administration at DOE—said that his agency had, during that week, had about 900 cases left and that he hoped to complete his work on these cases by the end of fiscal 1982.

Then the next noteworthy event, we think, is February 1982. Administration officials, including Mr. Hanzlik and including Mr.

Wright—here before us, who at that time was Deputy Secretary in the Department of Commerce—briefed the Congress on the proposal to dismantle DOE. It should be noted that one of President Reagan's campaign pledges was to do away with the Department of Energy as well as the Department of Education. Wright was named the head of the task force to manage the so called transition between having a Department of Energy and getting rid of it.

In March 1982, Wright was confirmed as Deputy Director of OMB.

September 14, 1982, formal charges were brought against Anchor Gasoline. They were issued administratively and they sought $7.6 million in alleged overcharges and $8.5 million in interest owed on those overcharges. That is September 14.

On September 23, 9 days later, 9 days after those charges were initially serviced, Mr. Wright calls Mr. Hanzlik on the telephone to complain that the enforcement program was "a bureaucratic mess" and that DOE lawyers would not take any steps to settle the case. He told Mr. Hanzlik, "I had a family company that was having a hell of a time getting to talk to anybody or getting anything resolved." He asked Mr. Hanzlik to meet with Anchor people and to "find out what was going on."

He says, "My whole conversation with Ray"—that is Hanzlik's first name—"was get those guys"—meaning the agency lawyers—"moving and do something. You will find out how bad it is."

Wright says he remembers saying, "Ray, I want to make sure that you understand I am not asking for any special treatment"—and that Wright had his executive assistant sit in on his half of the conversation. Wright says he was "just setting up a meeting." Wright said he had no say over DOE's budget and "It's a damn shame you can't ask somebody to talk to somebody without it appearing in the papers."

Hanzlik says, in reference to that phone call——

Senator STEVENS. Mr. Chairman? Would you yield, Senator?

Senator EAGLETON. Yes.

Senator STEVENS. This is what I was afraid we were getting into. Mr. Wright is here to testify. This appears to be a summary of excepts from statements made by various people who, I assume, will be called before the committee. It seems rather strange for us to have someone summarizing what the people have said and really, it looks to me like a brief of what has appeared in the newspaper. Are we going to have an investigation, or are we going to have just a recitation here that again goes out to the newspaper, the whole news media, as to what someone else says someone else has said, and particularly, the judgment factor of what was important in terms of the conversation that Hanzlik has had with anybody.

I really do think it is improper in connection with an investigation to have—and Senator Eagleton is my good friend—but it is sort of like a hanging statement before the scaffold has been built. [Laughter.]

Senator EAGLETON. Let me respond, Mr. Chairman. In the nature of an expanded opening statement by me, these are quotations that have appeared in news articles as well, as we will get into quotations that are direct quotations from witnesses that have been given to me over the telephone, witnesses by the way, that the Senator from Alaska didn't mention. He mentioned Mr. Gordon Harvey. But he didn't mention William C. Lynch; Mr. David Jackson; he didn't mention Mr. Robert Wehrle-Einhorn, all of whom I have talked to, and all of whom were turned off of the Anchor case once there was "high level intervention" that took them off the case.

So I am permitted to make an opening statement, and I validate this statement only insofar as it represents my summary—my summary of the sequential events. Others are free to dispute it, which they will do. I hope that with Mr. Hanzlik we will have all of these other witnesses that I suggested in addition to the ones that you suggest and of course, they are free to dispute it.

In my statement, I characterized in a nice way how Mr. Wright viewed the phone call. He said, "For God's sake, isn't it terrible that you—it's a damn shame you ask somebody to talk to somebody and it appears in the newspapers." Then he said, "You make a 120-second phone call and somebody considers it a fix." I am just giving my chronological summary.

If the quote from Mr. Wright hurt, that is not our fault, because Wright said them. I would like to give the summary and the interrelationship between Anchor and Canal, which is the other family company, and I would like to lay out some of these other things so that we have them before us and we can have Mr. Wright refute them as he sees fit.

Senator STEVENS. I have got to tell you, I have sat on this committee a long time. I remember some past administrations where it would have been considered highly improper if we had had such a statement of what people thought Mr. Lance had done before he came before this committee; you would have had to put a new roof on this building. This is just not fair.

There is a fairness question in terms of investigations. It is the same thing that comes out of a court concept. This is hearsay; this is the summary of what one person says other people have said. I assume we are going to have to decide whether those people should be witnesses. The Senator is right. He is entitled to say whatever he wants, but I think we ought to keep in mind the fairness of it.

I remember, as a matter of fact, making a similar objection at the time of the Lance hearing—for those people who were around—because I thought that some people were going too fast in trying to judge Mr. Lance.

I think we ought to develop an investigation in the way that anyone would develop an inquiry into conduct which may or may not have consequences legally. This is being investigated by the FBI. I have some serious questions, Mr. Chairman, about this.

Senator EAGLETON. All right, Mr. Chairman, I will make this a unanimous-consent request. I ask unanimous consent of all members here present that a chronology of the Wright matter as prepared by me and my staff with chronology dates from September 4, 1981 through April 18, 1985 be placed in the record immediately following my opening statement and be considered a part of that opening statement.

Chairman ROTH. Without objection, so ordered.

Senator EAGLETON. Now, I have a second request, a request on the same lines. Following that chronology, that another chronology, entitled Anchor Gasoline Corp./Canal Refining Co. Enforcement History, dated with dates beginning July 23, 1979 and concluding May 1985, because they are not certain of the date, be placed in the record as, again, part of my opening statement. It is a summary of the chronology of action at DOE relating to those two companies.

Again, this will be considered part of the Eagleton opening statement.

Senator RUDMAN. Could I just ask for the chairman or the ranking member to identify this? This document saying Draft, Anchor Gasoline Corp./Canal Refining Co. Enforcement History, who prepared that document?

Senator EAGLETON. Mr. Hanzlik's office.

Senator RUDMAN. That is a DOE document?

Senator EAGLETON. It is a Department of Energy document.

Senator RUDMAN. Thank you. I just wanted to know what I was holding.

Chairman ROTH. Is there any objection?

Without objection.

[Information submitted for the record by Senator Eagleton follows:]

THE WRIGHT AFFAIR—CHRONOLOGY

September 4, 1981—Three "Notices of Probable Violations" of petroleum pricing and allocation regulations consolidated and sent to Anchor Gasoline Company.

Week of December 20, 1981—Rayburn Hanzlik, Administrator of the Economic Regulatory Administration of DOE, says that his agency has 900 cases left; hopes to complete work by end of FY '82 (Sept., 1982).

February 1982—Administration officials, including Hanzlik and Wright (then Deputy Secretary of Dept. of Commerce) brief Congress on proposal to dismantle DOE. Wright named the head of a task force to manage the transition.

March 1982—Wright confirmed as Deputy Director of OMB.

September 14, 1982—Formal charges against Anchor issued administratively, seeking $7.6 million in alleged overcharges and $8.5 million in interest.

September 23, 1982—Wright calls Hanzlik to complain that the enforcement program was a "bureaucratic mess" and that DOE lawyers would not take any steps to settle the case. He told Hanzlik, he says, "I had a family company that was having a hell of a time getting to talk to anybody or getting anything resolved." He asked Hanzlik to meet with Anchor and to "find out what was going on." He says, "my whole conversation with Ray (Hanzlik) was, 'get those guys (agency lawyers) moving, do something. You'll find out how bad it is.' "

Wright says he remembers saying, "Ray, I want to make sure that you understand that I am not asking for any special treatment," and Wright had his executive assistant sit in on his half of the conversation. Wright says he was "just setting up a meeting." Wright says he has no say over DOE's budget, and thinks "it's a damn shame you can't ask somebody to talk to somebody without it appearing in the papers."

Hanzlik says in reference to that call, "a 120-second phone call is not what I would consider a fix." But he adds, I would prefer he hadn't done it because it raises questions. Now there's an appearance problem . . . It was not good judgment." He says, "I remember thinking, 'I don't appreciate the family connection here.' "

Hanzlik recalls that Wright referred to Anchor as a family company but not that he had a personal stake in it. Hanzlik's account of the conversation: "Joe is a very blunt guy. He said something like, 'When are you going to get this agency cleaned up, get it shaped up?' "

Hanzlik says, "I vaguely remember Joe complaining that people from the field office in KC were not very cooperative or easy to deal with." Hanzlik says that while Wright did not ask for special treatment, it was apparent that "he was trying to speed up a slow bureaucratic process" and was trying to convey Anchor's desire to resolve the case. He told Wright, "you can have the (Anchor) people come in here to find people who are more reasonable."

Hanzlik adds that Wright's call "did not have a scintilla of effect on the way the case was dealt with." He says it is unfortunate that government bungling leaves the appearance of a "nexus" between the delay in the case and Wright's call. The case was badly managed—"It got lost in the cracks . . . It was fumbled."

October 19, 1982—Anchor officials meet with the ERA regional office staff in Kansas City to try to settle. They are unsuccessful.

October 22, 1982—Hanzlik and two aides meet with Anchor officials in Washington to try to settle; they also fail. Hanzlik says of the meeting that it became apparent that "this was not going to be a case that was going to settle, because of the attitude of the people who came in. They were not people who had compromise on their minds." Anchor offered a $500,000 settlement; DOE proposed $2 million.

The Proposed Remedial Order (PRO) issued on Sept. 14, 1982 never published in the Federal Register. Hanzlik says DOE wanted to study potential flaws in the government's case. If the PRO had been published, the case would have been moved out of ERA and on to DOE's litigation staff.

It was decided to have the case reexamined, but in the Dallas regional office, not in KC.

January 1983—According to Wall Street Journal, DOE lawyers give approval to separate complaint against Canal Refining, but PRO not issued until April 18, 1985.

Mid-1983—Dallas review of Anchor case indicates their liability may be zero (Dallas found KC applied wrong regulations.) Dingell says $30 million.

November 1983—According to Journal, Anchor and ERA meet again to settle; despite above finding, no settlement reached.

Mid-1983 to January 1985—No DOE work on Anchor case.

October 19, 1982—Kansas City regional office closed.

January 2, 1985—Hanzlik aide interviewed about the case by DOE IG's office.

January 7, 1985—Dallas, on Washington's orders (according to Wall Street Journal) issues new formal complaint (PRO) to Anchor. New PRO contains same substance as first PRO issued 2½ years earlier.

April 18, 1985—PRO issued to Canal Refining

Anchor Gasoline Corp./Canal Refining Co. Enforcement History, Date and Action

July 23, 1979—Audit of Anchor Gasoline Corporation initiated by Kansas City office. Audit focuses on gasoline and No. 2 fuel oil sales.

September 20, 1979—Gasoline and No. 2 fuel oil audit considered completed by field audit staff.

September 27, 1979—Notice of Probable Violation (NOPV) issued to Anchor alleging $4.9 million of gasoline and No. 2 fuel oil pricing violations.

October 1, 1979—Audit of Anchor general refinery products begins.

October 15, 1979—Audit of Anchor natural gas condensate begins.

October 22, 1979—Anchor natural gas condensate audit completed.

November 6, 1979—Anchor replies to gasoline and No. 2 fuel oil NOPV.

March 27, 1980—Anchor general refinery products audit considered completed by field audit staff.

April 8, 1980—NOPV issued to Anchor alleging $105,000 in natural gas condensate pricing violations.

May 20, 1980—Anchor replies to natural gas condensate NOPV.

February 16, 1981—Audit of Canal Refining Company initiated by Kansas City office.

June 11, 1981—NOPV issued to Anchor alleging $2.4 million in general refinery products pricing violations.

June 30, 1981—Canal audit considered completed by field audit staff.

August 12, 1981—Anchor replies to general refinery products NOPV.

September 4, 1981—The three Anchor NOPV cases consolidated into one case for drafting of Proposed Remedial Order (PRO)

February 10, 1982—First draft of Canal PRO prepared alleging entitlements violations.

June 14, 1982—Anchor sent standard settlement letter from Administrator; similar letters were sent to all firms with enforcement disputes, inviting firms to discuss settlement.

June 25, 1982—Anchor responds to Administrator's settlement letter through contact with Kansas City office.

September 14, 1982—PRO issued to Anchor alleging $7.6 million (plus interest) in pricing of gasoline, No. 2 fuel oil, natural gas condensate and general refinery products.

September 23, 1982—Second draft of Canal PRO prepared alleging entitlements violations.

September 24, 1982—Anchor settlement discussions with Kansas City office. Anchor makes settlement offer but no agreement is reached.

September 30, 1982—Anchor writes Kansas City office urging acceptance of its offer.

October 1982—Joseph Wright, Deputy Director of Office of Management and Budget, telephones Administrator to request he meet with Anchor officials to discuss lack of progress in settlement discussions with Kansas City office. Administrator agrees to meet with Anchor officials, pursuant to his policy of meeting with any firm interested in settlement.

October 8, 1982—Administrator addresses meeting of American Petroleum Refiners Association. Anchor vice president, Coty Dupre, is at a meeting and introduces himself to Administrator, requesting settlement meeting. Administrator tells Dupre to contact his office to arrange meeting time.

October 11, 1982—Dupre writes Administrator to forward copy of September 30, 1982 letter Anchor sent to Kansas City Office.

October 14, 1982—Third draft of Canal PRO prepared alleging entitlements violations.

October 22, 1982—Administrator, Special Counsel, and Deputy Special Counsel meet with Dupre and Anchor counsel (R.N. Dunagan). Anchor explains results of settlement discussions with Kansas City office, contending that firm was not receiving sufficient credit for increased costs in the calculation of Anchor's alleged liability and that the regulations were incorrectly applied in several important aspects. Follow-up meeting with Special Counsel scheduled to discuss in detail elements of Anchor case.

November 10, 1982—Follow-up meeting on Anchor settlement held with all parties at October 22 meeting except Administrator.

November 1982—Based on information received from Anchor at November 10 meeting, which indicated fundamental flaws in PRO allegations, Special Counsel requests assistance from computer and audit staff in Dallas office (location of agency's refinery and computer expertise), in coordination with Kansas City office, in recalculating Anchor's liability using correct approach and data.

November 1, 1982—Fourth draft of Canal PRO prepared alleging entitlements violations.

December 16, 1982—Fifth draft of Canal PRO prepared alleging entitlements violations.

January 1983 to April 1983—Dallas staff and Kansas City office rework calculations in Anchor case. Preliminary results indicate substantial reduction in liability alleged in PRO.

January 20, 1983—Sixth draft of Canal PRO prepared alleging entitlements violations.

May 6, 1983—Anchor counsel sends Dallas staff additional accounting and financial information.

June 18, 1983—Dallas staff advises Deputy Special Counsel that Anchor liability may be zero if even some of data from Anchor proves correct.

April 1983 to August 1984—Special Counsel and settlement staff in Dallas and Washington concentrate efforts and resources on developing new settlement procedures and in renegotiating major refiner settlements. Little activity with "small case" settlements during this period, with no activity on Anchor.

November 8, 1983—Administrator and Special Counsel meet with Dupre and Anchor counsel at Anchor's request to discuss possibility of receiving credit for oil pricing claims Anchor has against Department of Interior in determining DOE liability. Anchor is told this is not a feasible possibility.

August 30, 1984—Seventh draft of Canal PRO prepared alleging entitlements violations.

October 19, 1984—Kansas City office closes, with Anchor and other pending Kansas City cases transferred to Director of Dallas office.

January 3, 1985—Director of Dallas office discovers that Anchor PRO issued in September 1982 has not been published in Federal Register (step that activates litigation); Dallas office withdraws PRO to update interest calculations.

January 7, 1985—New PRO is issued to Anchor. Liability and regulatory applications remain same as September 1982 PRO.

January 1985—Anchor counsel complains that new PRO does not incorporate data provided by Anchor during settlement meetings. Discussions between Special Counsel, Deputy Special Counsel and Director of Dallas office result in realization that new Anchor PRO does not, in fact, allege correct liability or correct regulatory applications.

March 1, 1985—Eighth draft of Canal PRO prepared alleging entitlements violations.

March 4, 1985—Dallas office determines that alleged liability for Anchor is significantly lower than alleged in reissued PRO. Work continues on recalculating correct liability and redrafting the PRO to reflect appropriate regulatory interpretations and applications.

March 5, 1985—PRO issued to Cities Service Company alleging $509 million of entitlements liability. Canal entitlements PRO drafts had been affected by development of legal theory for entitlements cases, reflected in larger Cities case.

April 8, 1985—Ninth draft of Canal PRO prepared alleging entitlements violations.

April 18, 1985—PRO issued to Canal alleging $21 million of entitlements violations. The PRO incorporates in part the approach taken in the Cities Service PRO.

May 1985—Anchor PRO to be reissued, incorporating corrected data and regulatory applications resulting in the decrease in liability alleged in previous PRO's.

[From the Wall Street Journal, May 7, 1985]

QUESTION OF MOTIVE: DID CALL FROM OFFICIAL DELAY ENERGY DEPARTMENT'S CASE AGAINST FATHER'S FIRM?

(By Edward T. Pound)

WASHINGTON.—As the White House's deputy budget director, Joseph R. Wright, Jr. also serves as chairman of the President's Council on Integrity and Efficiency, which was set up to combat waste and fraud in the federal government.

In 1982, five months after taking office, Mr. Wright telephoned a top Energy Department regulator about a $16 million enforcement case then pending against Anchor Gasoline Corp., a Tulsa, Okla., company in which Mr. Wright has a substantial financial interest and that is run by his father. A few weeks later, government records show, the department removed the case from the regional office that had issued the charges and subsequently put it on hold for two years.

Energy Department officials say they pulled back to study "flaws" in the case that Anchor had pointed out. According to department records and interviews, some department employees said they understood the case was held up because of political pressure. This January, after the department's inspector general began an inquiry, the department reissued the same allegations of price overcharges by Anchor during the government's former oil price-control program. Both a congressional committee and the Federal Bureau of Investigation have begun inquiries into the handling of the case and Mr. Wright's actions.

The 46-year-old Mr. Wright and the Energy Department say there was no connection between Mr. Wright's phone call and the long inaction. The blunt-spoken Mr. Wright, who is second only to David Stockman at the White House Office of Management and Budget, says it was the only time he has called the Energy Department's regulatory arm on an enforcement case, and he now describes the call as a mistake. "I blew it from a PR standpoint," he says. "If I had to do it over again, I wouldn't do it because of the way it looks."

Seen in its worst light, the incident would indicate abuse of political influence and a clear conflict of interest. Giving Mr. Wright and Energy Department officials the benefit of the doubt, the episode is a case study of bureaucratic bumbling.

A 120-SECOND CALL

Rayburn Hanzlik, the Energy Department official whom Mr. Wright phoned and who later met with Anchor representatives, says that "a 120-second phone call is not what I would consider a fix." But Mr. Hanzlik adds: "I would prefer he hadn't done it because it raises questions. Now there's an appearance problem. . . . It was not good judgment." He says, "I remember thinking . . . "I don't appreciate the family connection here.' "

An administrator of the Energy Department's Economic Regulatory Administration, Mr. Hanzlik is responsible for pursuing recoveries from companies that allegedly violated federal price controls on oil and refined products that were in effect from 1973 until January 1981. He says that his goal is to close the regulatory agency as soon as possible and that some alleged violators have concluded, mistakenly, that their cases will disappear if they can drag out the process. About 525 cases are still pending, including the one against Anchor.

An inquiry by this newspaper also shows that a separate complaint against Anchor's principal subsidiary, Canal Refining Co. of Church Point, La., was only recently issued by the Energy Department although department lawyers had given their approval in January 1983 for a complaint to be brought. The department is seeking to recover $23 million in alleged overcharges and interest. Mr. Hanzlik says the case was held up because of changing legal theories. All the charges are denied by Anchor, whose annual sales of oil, gasoline and related products total about $100 million.

FAMILY OWNS 20 PERCENT

Anchor's chairman is Joseph Wright, Sr., the father of the White House budget official, and the Wright family owns 20% of the company's stock. The younger Mr. Wright owns 22 shares, or slightly more than 3% of the total stock, which he says was given to him by his father. He values the stock at more than $250,000.

Mr. Wright says that he has never been active in Anchor's operations, although a biography he submitted during his Senate confirmation hearings three years ago identified him as an Anchor director. Mr. Wright says his biography was wrong. "I screwed up, that's all," he says. "I was never a director."

Mr. Wright joined the administration in 1981 as deputy secretary of commerce. He previously was president of Citicorp's retail-credit subsidiary.

His public financial-disclosure forms show that he has also been reimbursed by his father for trips to Tulsa to discuss "family business matters." The younger Mr. Wright says those trips were made to discuss their joint investments in oil and gas well leases.

The case against Anchor was prepared by the Energy Department's now-defunct Kansas City enforcement office. Three notices of "probable" violations were sent to the company through 1981, and formal charges were issued administratively in September 1982. The federal complaint sought $7.6 million in alleged overcharges by Anchor in the sale of gasoline, diesel fuel, butane, and propane. Some $8.5 million in interest also was sought.

Though he says they never discussed the specifics of the case, Mr. Wright says that his father complained incessantly that Anchor, after long effort, couldn't get the Kansas City office to settle the matter. He remembers his father asking "Damn it, isn't there somebody in Washington we can talk to?"

On September 23, 1982, nine days after the formal charges were issued, the OMB official called Mr. Hanzlik. He says that he complained that the enforcement program was a "bureaucratic mess" and that department lawyers wouldn't take any steps to settle the longstanding case. He recalls telling Mr. Hanzlik that "I had a family company that was having a hell of a time getting to talk to anybody or getting anything resolved." He says he asked Mr. Hanzlik to meet with Anchor and to "find out what was going on."

He says, "My whole conversation with Ray was, 'Get those guys (agency lawyers) moving, do something. You'll find out how bad it is.' "

TELLS OF CONCERN

Mr. Wright says he was concerned that his call might be misinterpreted so he called his executive assistant into his office to listen to his end of the conversation. "I can remember saying, 'Ray, I want to make sure that you understand that I am not asking for any special treatment,' " he says. His executive assistant, Maryann Ferko, corroborates Mr. Wright's account. Mr Wright says Mr. Hanzlik called later to say he had met with Anchor.

Mr. Wright insists that his actions weren't improper and that he "was really just setting up a meeting." He adds that he doesn't have any say over the Energy Department's budget. "I think it is a damn shame," he says, that "you can't ask somebody to talk to somebody without it appearing in the papers."

Mr. Hanzlik says he recalls that Mr. Wright refered to Anchor as a family company but that he didn't say he had a personal stake in the concern. Mr. Hanzlik gives this account:

"Joe is a very blunt guy. He said something like, 'When are you going to get this agency cleaned up, get it shaped up?' " And "I vaguely remember Joe complaining that people from the field office in Kansas City were not very cooperative or easy to deal with." Mr. Hanzlik says while Mr. Wright didn't ask for special treatment, it was apparent that he "was trying to speed up a slow process" and was conveying Anchor's anxiety to resolve the case.

SETTLEMENT POLICY

Mr. Hanzlik says he regularly encourages companies interested in settling their cases to meet with him. He says he told Mr. Wright: "You can have the people [from Anchor] come in here to find people who are more reasonable."

The energy regulator says Mr. Wright's call "did not have a scintilla of effect on the way the case was dealt with." He says it is unfortunate that government bungling has left the appearance of "a nexus between [the delay] and the call from Wright." He says the delay was because the case was badly managed—"It got lost in the cracks. . . . It was fumbled."

Nevertheless, the appearance of high political involvement was perceived by some Energy Department employees, Robert J. Wehrle-Einhorn, formerly a lawyer in the Kansas City office and the man who prepared the orignal case against Anchor, says that when he inquired to Washington why the case was being delayed, "the reason given was that this was delicate or sensitive because of pressure on the [department's] budget. My understanding was that this pressure was coming from a high level official . . . in Energy or the White House.

An Energy Department aide in Washington reported in a memo dated September 26, 1984, that in response to an inquiry to the Kansas City office about the delay in the Anchor case, an employee in Kansas City said "he was told that the owner of the firm was either in the White House or at the OMB—or had strong connections at those places." The Energy Department denies there ever was any delay in the case because of political pressure.

A FAIR SHAKE

For their part officials of Anchor say they were anxious to settle their case. It would be "ridiculous as hell" to suggest otherwise, says the senior Mr. Wright. He says Anchor felt that by getting the case out of Kansas City and into Washington, where settlements were being made, "we could get a fair shake and get it off our backs." Another Anchor official, Coty R. Dupre, adds: "We never did try to pigeonhole this case—to slow the process up."

The department's Mr. Hanzlik explains the sequence of events this way: On October 22, 1982, he and two aides met with Anchor's representatives. This was 1 month after Mr. Wright's call and 3 days after the company and Energy Department lawyers in Kansas City had failed, once again, to settle the case. Anchor offered a $500,000 settlement while the department proposed $2 million, Mr. Hanzlik says.

But in his meeting with Anchor, Mr. Hanzlik says, it became clear "that this was not going to be a case that was going to settle, because of the attitude of the people who came in. They were not people who had compromise on their minds."

At the time, Mr. Hanzlik's agency was scheduled to publish notice of its formal charge against Anchor in the Federal Register. Such a notice, in Mr. Hanzlik's words, would have taken the case "out of our hands" by moving it to the department's litigation staff.

The notice wasn't published, Mr. Hanzlik says, because his agency wanted to study potential flaws in the government case. Instead of returning the case to the Kansas City office, which had worked three years on it, Mr. Hanzlik says it was decided to have the Dallas office make the reexamination, with close monitoring by Washington.

He says that the Washington and Dallas staffs concluded that the Kansas City office had used the wrong regulations and hadn't factored in some of Anchor's costs. By mid-1983, he says, the review indicated that Anchor didn't owe anything. Still, he says, no agreement on a settlement was reached in a meeting with Anchor in November 1983.

From mid-1983 until January of this year, according to Mr. Hanzlik and his aides, no work was done on the Anchor case. On January 7, five days after a Hanzlik aide was questioned by the department's inspector general's office, the Dallas office—on Washington's orders—reissued a formal complaint, again alleging $7.6 million in overcharges by Anchor.

Milton C. Lorenz, the special Energy Department counsel who monitored the case for Mr. Hanzlik, says the new complaint contains the same errors as the original one and was reissued because of a bureaucratic foul-up. But he says the agency found out this March that the recalculations done by the Dallas office in 1983, which indicated no liability, also were wrong. He says that a new analysis shows $5 million to $6 million in overcharges but that the matter is being studied further. He says that a new, corrected complaint will be issued. The whole affair, he says, "was a comedy of errors."

Mr. Werhle-Einhorn, the former agency lawyer in Kansas City, says he disagrees with Washington's view that the Kansas City official had used the wrong regulations in preparing the original charges. Mr. Werhle-Einhorn, who has since left the agency, says that once the Dallas office was brought in by Washington to recalculate Anchor's liability, "we had little to do with the case. . . . We were just cut out of it. The case was taken away from us."

He says that he was recently interviewed by the FBI and investigators for the House Energy Subcommittee on Oversight and Investigations. The House panel's chairman is Democratic Rep. John Dingell of Michigan, who has criticized the Energy Department's enforcement efforts as too weak. Department officials say Rep. Dingell is investigating their handling of cases involving Anchor and other companies. An official in the inspector general's office confirms that information on the cases involving Anchor and its Canal Refining subsidiary was referred to the FBI last January.

Even the inspector general's review of the Anchor case has been controversial within the Energy Department because the employee who initiated it, Gordon W. Harvey, has other differences with deputy budget chief Wright: Mr. Harvey has charged that Mr. Wright two years ago tried to pressure Mr. Harvey's boss into disciplining him. (Mr. Wright denies it.) Mr. Harvey made that charge in papers filed in a recent personnel proceeding that led to his demotion last January from his post as assistant inspector general for audits. He denies that his feelings toward Mr. Wright have affected the review of the Anchor case.

Chairman ROTH. Thank you, Senator Eagleton. At this stage, I think we are prepared, Mr. Wright, for you to make whatever statement you would care to make at this time. Please proceed.

TESTIMONY OF JOSEPH R. WRIGHT, JR., DEPUTY DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

Mr. WRIGHT. Thank you, Mr. Chairman. I do have a prepared statement which I believe we will be handing out at the same time, but I would like to read it because I want to emphasize certain parts of it, Mr. Chairman, if you don't mind.

Chairman ROTH. Please proceed.

Mr. WRIGHT. First of all, I do appreciate you putting off the hearing from last Thursday to today. I was totally taken by surprise, and I do appreciate the committee giving me a little bit of time to even concentrate on the subject.

Mr. Chairman, I appreciate this opportunity to present my side of the story in sworn testimony on the record. I thank the committee for providing me this forum.

My involvement in this matter was brief and undertaken in good faith. I made a telephone call, and during that call made clear that the matter needed to be handled properly and without favoritism. To suggest anything different would be dead wrong. On the other hand, I now understand what can be made out of this call when combined with other events, which I think Mr. Eagleton referred to, over which I had no control or influence.

To begin, because of my family connection with the energy business, I have, since joining OMB 3 years ago, recused myself and have not participated in any energy policy, energy budget, energy regulatory or other energy matters.

I would like to reemphasize that, Mr. Chairman. I have recused myself from all of those energy matters. Both OMB staff and I have been very careful to adhere to this policy to this day.

In 1982, 2½ years ago, again, 2½ years ago, my father told me he was having trouble with what he considered bureaucratic delays and foot-dragging in getting a decision from the Department of Energy on a matter involving pricing regulation. He thought that there must be somebody in Washington, DC, his people could talk to. He did not then, nor has he since, discussed the nature or details of that matter with me.

In September 1982, I made a brief phone call to Ray Hanzlik, Administrator of the Energy Regulatory Administration, and asked him if he or some of his people in Washington could simply meet with company representatives to see for themselves what the problem was.

The following three points were specifically emphasized during that call: No. 1, all I was asking for was a meeting, nothing else. No. 2, the company I was referring to was a family company. I made that clear. And No. 3, I neither wanted nor expected any special treatment.

I made that last point as clearly as I could, and Mr. Hanzlik said he understood and would handle it in no other way. That was the nature of that phone call.

By the way, Mr. Chairman, I will depart from the text for 1 second. I also felt so strongly about those three points that I had my executive assistant come in; I informed Mr. Hanzlik that she was there at that time, and she witnessed the entire conversation.

Several weeks later, Mr. Hanzlik called to report that a meeting had occurred or would occur. We did not discuss the case, nor have we since. I would also depart there, Mr. Chairman, by mentioning that when that call came in, I further had my secretary come in, listen to it and put a note in the record as to what was discussed.

Mr. Hanzlik said there would be no favorable treatment and he would be handling this just like he does other oil companies, and he encourages them to come in and see him.

He did make a personal call and visit me about 3 months later. It had nothing to do with the case at all, and those are the only contacts we have had.

In summary, I have never discussed the nature or details of the company's problems with my father, with company representatives or with anybody in the Energy Department. I didn't even know the nature or details of the situation until I learned them from a reporter last month.

The implication that I tried to use my influence or to have the case stalled is ridiculous and is false.

In conclusion, I have learned from this highly unpleasant experience. Mr. Chairman, I will not do again what I did in 1982. However, I thought at the time I took responsible, careful actions, and I did.

But I now see, again, that events that occurred later which were beyond my control, beyond my knowledge and beyond my influence can make my actions seem, to some people, to be different from what it actually was.

Mr. Chairman, I hope that this perspective is helpful to the committee. I appreciate the opportunity to set forth the facts as I know them and to clear up any misimpressions that may have been created.

I would also like to add one more thing, Mr. Chairman, for the committee. If I am rather slow and thoughtful in answering questions, it is because I want to make sure that I am not misinterpreted during the questioning. When I left here last Thursday, a reporter followed me out of the building, asked me specifically a question, and I had people that were pushing me out of the doors, asking me a question, "Would you make a call again?" And I said, "No. I would ask him, my father, to call a Senator." I probably should have said "and representatives" or whatever it is.

The way it was reported was, "Wright said if he wanted to influence the case, he would have asked or he would have called his Senator." So therefore, I wanted to clear up that misimpression. I had witnesses to that brief conversation again as we were leaving the building. I see nothing wrong with an elected representative calling any members of the Federal Government and asking them to see a constituent. Thank you, sir.

Chairman Roth. Mr. Wright, I have a series of questions, some of which will go over the same ground, but I think it is worthwhile for the purposes of the record to make clear your answers. Mr. Wright, what was your purpose in calling Mr. Hanzlik in 1982?

Mr. Wright. Mr. Chairman, I asked Mr. Hanzlik—pardon me. I told Mr. Hanzlik that I had a family company—I said that up front—that seemed to be having serious bureaucratic problems, and would he mind meeting with them and finding out what the problems were. I specifically, again, and pardon me, I am repeating from my testimony a little bit. I specifically said that all I was asking for was a meeting and that I did not expect any special treatment and that I had somebody in the room listening.

He gave no impresssion that at that time that he was concerned or that it was anything at all unusual. If he would have, I would have backed off.

Chairman Roth. You said you had present during that call an executive aide.

Mr. Wright. Yes, sir.

Chairman Roth. Would you please repeat who she was, and did she keep any kind of a record of the conversation?

Mr. Wright. Her name was Miss Mary Ann Ferko. She was my executive assistant. As the call was being made, I asked that they bring her into the room. She came in right after the call was first initiated, and I got Mr. Hanzlik on the phone. I very briefly—the way I remember it was I put my hand over the phone and I said, "Mary Ann, I am making a call to Ray Hanzlik of the Energy Regulatory Administration, and I want you to hear this call."

I then said, "Ray, I have got my executive assistant in the room, who is going to be witnessing this call." I then made the three points I have made in my testimony.

Chairman Roth. Let me ask you.

Mr. Wright. Did she make any notes? No, sir, not to my knowledge, but she remembers the conversation well. It is not a normal thing that you do to bring somebody in to witness a full conversation.

Chairman Roth. You summarized the three points that you say you emphasized during the call. You heard in the opening statement of Senator Eagleton certain quotations. Can you recall exactly? If not, can you restate essentially what you did say in that telephone conversation?

Mr. WRIGHT. Sir, with all due respect, the telephone conversation was 2½ years ago. I do remember specifically saying to Mr. Hanzlik that I had heard that he had serious bureaucratic problems within the agency. I do not believe—I think you could ask Mr. Hanzlik this—that I used the rhetoric that was reported in the Journal.

I may have felt it, and I think that was in response to a reporter's question, because that is my normal feeling toward the Federal Government, and that is, we ought to move things, we should not be bureaucratic and that's what I have worked for the entire time I have been in the Government.

But I do not believe that I would call an agency head and insult his employees except for to say that he has got bureaucratic problems, and I believe that was the only thing that I emphasized. Now, I must say that I do not remember the full part of that conversation. I do remember I was very careful.

Chairman ROTH. Did you keep any record yourself of the conversation?

Mr. WRIGHT. No, sir, I did not.

Pardon me. Pardon me, Mr. Chairman. I did keep a record on when the call was made and what time.

Chairman ROTH. But no record of the actual conversation?

Mr. WRIGHT. No, sir.

Chairman ROTH. Did you make more than one call?

Mr. WRIGHT. I did not make more than one call, Mr. Chairman, that I'm aware of. The log that we have over at the Office of Management and Budget shows that one call was made to Mr. Hanzlik at 10:55 a.m. on September 23. We keep pretty good logs on these phone calls over there, and so therefore, I go by that record.

Chairman ROTH. Did you talk to any other official or employee, either in the Department of Energy or anyone else in Government about the enforcement dispute of Anchor or its subsidiaries?

Mr. WRIGHT. No, sir. I am sure that I did not. I cannot recall ever bringing that up again. I was very careful not to.

Chairman ROTH. Never discussed it with anyone else in the Department of Energy or anyone else in Government?

Mr. WRIGHT. No, sir. No, sir.

Chairman ROTH. You say in your statement that you had two further meetings, discussions.

Mr. WRIGHT. Pardon me. Pardon me, Mr. Chairman. When you said anyone else in Government? My executive assistant was aware that I had made the call. She was there. I will say that my secretary probably was aware of it, also, because she witnessed the second call that came in from Mr. Hanzlik. They are Government employees.

Chairman ROTH. Let me ask you this: Did you ever call or seek to discuss the matter with anyone in Government, with an official employee who might have some influence on the resolution of the enforcement procedure?

Mr. WRIGHT. No, sir, not at all.

Chairman ROTH. If I understand your testimony, you say you had how many discussions with Mr. Hanzlik?

Mr. WRIGHT. I had three discussions on the phone with Mr. Hanzlik. One was at 10:55 a.m. on September 23 in 1982, which is the phone discussion that we just discussed, we just mentioned. Mr. Hanzlik called me at 10:55 a.m.—I'm sorry, I'm sorry. Mr. Hanzlik called me at 9:35 a.m. on October 21, 1982 to announce that either the meeting was being set up or was going to, and I just don't recall that.

And that is also when I had my secretary in that conversation. Then on February 1, 1983, Mr. Hanzlik called me at 7:40 a.m., and I returned the call at 2:50 p.m. and discussed it with him or—pardon me—had a discussion with him. It had nothing to do at all with the case or any meetings.

Chairman ROTH. Can you say what the nature of that call was?

Mr. WRIGHT. It is difficult for me to remember that, Mr. Chairman. The best I can recall is Mr. Hanzlik wanted to come by and have a discussion, and I think he was going to be in the building anyway, and have a discussion about changing jobs or he was leaving the Federal Government and going back to whatever State he was in or whatever it was. It was a very short conversation that was a personal conversation. It had nothing to do with business at all.[1]

Chairman ROTH. Did he ever follow through and meet with you on that matter?

Mr. WRIGHT. No, sir, he didn't.

Chairman ROTH. How long a discussion was that?

Mr. WRIGHT. I would say all telephone conversations—I don't even think the first one went 2 minutes.

Chairman ROTH. How about the last one?

Mr. WRIGHT. The last one probably was shorter.

Senator GORE. Would the chairman yield briefly?

Chairman ROTH. Yes.

Senator GORE. You say in your statement that he visited you about 3 months later?

Mr. WRIGHT. Yes, sir. Yes, sir.

Senator GORE. You said there were three calls. There was also a personal visit. Did I miss that in the interchange?

Mr. WRIGHT. No. Right after the third call, and the third call was, "Can I come by and talk to you. I have been thinking about leaving the Federal Government or taking another job." I can't remember what it was. Senator, I can't even remember what it was. It was something I was not associated with, and therefore, I can't help you out. I just don't have a great recollection of that. I think Mr. Hanzlik probably has one better than I do.

Senator GORE. Thank you, sir.

Chairman ROTH. You say in your prepared statement that you never discussed the nature or details of the company's problems. You had no idea as to the nature of the problem or the amount of money that was involved in the dispute?

Mr. WRIGHT. No, sir. I first got the feeling for the amounts of the money when I was talking to a reporter about a month ago, and I was absolutely flabbergasted by the amount. Then I read it in the Journal report.

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[1] By letter, dated May 28, 1985, enclosing his corrected testimony, Mr. Wright states: "Concerning [the testimony contained in the text] my telephone logs indicate that the third call with Mr. Hanzlik was after his visit—not before. As indicated at the hearing, there was no discussion whatever of the Anchor and/or Canal case(s)." The entire letter may be found in the committee files.

Chairman ROTH. One of the newspaper articles says that you occasionally returned home, flew home to discuss business matters with your father. This matter that is in dispute never came up for discussion?

Mr. WRIGHT. Mr. Chairman, I was very, very clear, particularly during the first, let's say, like a year after the conversation, that my father or any of the employees specifically not discuss this case with me.

Senator EAGLETON. Could you pull the mike in a little closer?

Mr. WRIGHT. Sure. Sorry. Is this better?

Senator EAGLETON. I am hard of hearing.

Mr. WRIGHT. As I said the other day, I am hard of talking sometimes. [Laughter.]

I was very adamant about that, I can remember one time when my father actually called and said that a future meeting was going to be set up and somebody might call me about it. I called him in 5 minutes and told him, "I cannot discuss this case, period." It caused a little consternation, a little bewilderment, because people out there don't really understand how the Federal Government operates, but they honored my wishes.

Chairman ROTH. But they what? I'm sorry.

Mr. WRIGHT. They honored my wishes. They did not discuss this case. I never got into it. As a matter of fact, if you had asked me about a month ago to say what the case was about, I would have had the wrong part of the company and I would have had the wrong part of the pricing.

But, you're right, I do travel home to see my parents. Obviously, it is not just on business matters. My two sisters come in, also. The most amazing thing about it, Mr. Chairman, is when my father just gives me airline tickets to go home at Christmas and all the rest of that, I had to put that on my financial disclosure form. That's another subject.

The only business that we discuss is we have joint venture, oil and gas drilling projects, about 20 or some-plus, that are through a total different company called Natural Gas Anadarko that I have had some difficulty making investments on because my salary has gone down a bit since I came here, and we do discuss those, because those are personal investments, but for the most part, those conversations are personal—personal and we do not discuss aspects. We did not discuss about Anchor-Canal except he will complain about how bad business is normally and about how bad the Federal Government is.

Chairman ROTH. Senator Eagleton would like to know the name of the drilling company.

Mr. WRIGHT. Natural Gas Anadarko.

Chairman ROTH. What is the last name?

Mr. WRIGHT. Anadarko. Senator Eagleton, that is from the Anadarko basin in the northern Texas panhandle.

Chairman ROTH. Mr. Wright, in your conversation, in that first call with Mr. Hanzlik, did you disclose your family interest in the company and your own ownership?

Mr. **Wright**. Mr. Chairman, I said right up front it was a family company. Now, no, I did not break out the stock ownership. I didn't see any reason to. If it is a family company, obviously I have an interest in it. I'm part of the family.

At that stage, if there would have been any concern about it, I would have ceased the conversation. But that was made right up front.

Chairman **Roth**. Did you ask him for any favors or special treatment?

Mr. **Wright**. On the other hand, I specifically said that there was not to be any favoritism and there was not to be any special treatment. He said he understood and he would not handle it any other way.

Chairman **Roth**. Did you ask him to drop or delay the case against Anchor?

Mr. **Wright**. Under no circumstances. Mr. Chairman, you have to understand that the only feeling that I had for my father was the fact that they wanted to get the case settled and they were going through bureaucracy stalling and all the rest of this stuff. It never even came into my mind that anybody would want to stall one of these cases. Why would you want to have to keep dealing with the Federal Government?

Chairman **Roth**. Did you suggest any levels of potential settlement to Mr. Hanzlik?

Mr. **Wright**. No, sir, not at all. I wouldn't have even had any idea of what to suggest.

Chairman **Roth**. Did you promise him anything?

Mr. **Wright**. No, sir.

Chairman **Roth**. Did you threaten him or the Department in any way?

Mr. **Wright**. Under no circumstances.

Chairman **Roth**. Are you aware that on September 14, 1982, a proposed remedial order was issued to Anchor in the amount of $7.6 million?

Mr. **Wright**. No, sir. I have no idea of any of the remedial orders or whatever you call them. I'm not even familiar with what that process is.

Chairman **Roth**. What did Mr. Hanzlik say to you as to what he would do?

Mr. **Wright**. He said he would be more than happy to go on ahead and meet with a couple of the company representatives. He encourages them to come to Washington. He also said he would handle it completely above board, that it was unnecessary for me—I had made my very careful statements, and that was it. Oh, and to have them give him a call.

Chairman **Roth**. That was the only commitment of any type that he made or the only statement he made?

Mr. **Wright**. Absolutely.

Chairman **Roth**. It is my understanding that proposed remedial orders are usually published in the Federal Register. Are you aware that the Anchor proposed remedial order was not published in the Federal Register? If so, do you know why that happened?

Mr. **Wright**. No, sir. I was not aware of any of the actions of the case, either before or after my call.

Chairman ROTH. Were you aware that because of your call, a meeting took place between Mr. Hanzlik and Anchor officials?

Mr. WRIGHT. Yes, sir, I was aware of it, because Mr. Hanzlik called me and either said—again, I don't remember which one it was—that it was going to occur or it had. That was a courtesy call just saying, "I'm going to be meeting with company officials." He did not mention anything about the case or whatever.

Chairman ROTH. Did you make any request or comment about that meeting?

Mr. WRIGHT. Did I make any?

Chairman ROTH. Yes.

Mr. WRIGHT. No, sir. Again, he reiterated from the statement that my secretary put in the record that there would be no favoritism and the company would be treated just like other companies.

Chairman ROTH. Were you involved in any way in the meeting?

Mr. WRIGHT. No, sir.

Chairman ROTH. Mr. Wright, are you aware of the ethical standard of conduct for Government officials which proscribes actions that might result in or create the appearance of using public office for private gain or profit, or giving preferential treatment to any person?

Mr. WRIGHT. Yes, sir, I am.

Chairman ROTH. Do you think that your call to Mr. Hanzlik might create such an appearance?

Mr. WRIGHT. I do not, Mr. Chairman. You take the call by itself and not just the call, but what was the content of the call and what was requested, and the extra care that was taken to make sure that no appearance of any wrongdoing was given, I believe that the call, again, by itself, does not agree with that appearance. When you combine it with the rest of the events that Senator Eagleton mentioned, that right there is the appearance, Mr. Chairman. It was not the call that I made.

Chairman ROTH. Let me ask you this. If you had to do it all over again, would you make that call to Mr. Hanzlik?

Mr. WRIGHT. I would not, Mr. Chairman. I really don't have any great desire of spending a week or two in the press and coming up before this committee, although I do enjoy this committee and discussing this particular issue. [Laughter.]

Senator RUDMAN. But not today.

Chairman ROTH. But not today.

Mr. WRIGHT. That's right.

Chairman ROTH. Thank you, Senator Rudman.

Are you personally acquainted with a Department of Energy employee named Gordon Harvey?

Mr. WRIGHT. I am not personally acquainted with the gentleman, no, sir.

Chairman ROTH. Have you heard of the name of this employee before?

Mr. WRIGHT. Yes, sir, I certainly have.

Chairman ROTH. In what connection?

Mr. WRIGHT. On as best I can tell, June 16, that is June 16, 1983, the special counsel at the Merit Systems Protection Board gave me a call at 2:55 p.m. and stated that he had completed an investigation of a Mr. Gordon Harvey who was in the inspector general's office. I believe he was the assistant for audit; that there had been a violation and I believe there was a whistleblower act and that he had tried to get a resolution with Mr. Harvey's superior, Mr. Jim Richards, who is the inspector general, had spent evidently several lunches with him and several telephone calls; was not able to get a resolution, and he told me he would be more than happy to take a letter of reprimand or some lesser penalty if Mr. Richards and Mr. Harvey would agree and if he wouldn't, then he would have to go ahead and go through the disciplinary process and would I please give Mr. Richards a call and try to resolve this problem between two members of the President's Council on Integrity and Efficiency.

To my knowledge, that was the first time I had ever heard of Mr. Harvey's name. This does not mean that he wasn't at some PCIE function somewhere and I may have met him, but I certainly can't recall. I did call Mr. Richards. I explained the case to him. He said it was very complex. I asked him who in his mind was guilty on this, was it the Office of Personnel or was it Mr. Harvey? He said he thought it was the Office of Personnel.

I then called the Assistant Secretary for Administration, asked her, Martha Hesse. "I understand that the Office of Personnel has made a mistake and you have got a Mr. Harvey over in the inspector general's office that looks like he could perhaps be getting bad treatment."

She said she would look into it. She called me back, said, "No, that's not true. The Office of Personnel did not provide bad information. It looks like Mr. Harvey's on his own with his actions."

I called back Mr. Richards again.

Chairman ROTH. Mr. Harvey was what?

Mr. WRIGHT. Looked like Mr. Harvey acted on his own. In other words, it was not the Office of Personnel's fault. I called back Mr. Richards and told him that. He then told me that he was going to support Mr. Harvey and that they were just going to have a disagreement with the special counsel of the Merits Systems Protection Board. I then called back Bill O'Connor and said that I tried; we couldn't resolve this within the PCIE and "You will have to do whatever you are going to do."

Now, I found, Mr. Chairman, like a month later that Mr. Harvey had filed a complaint against me, and I was the only one trying to help him out. I then went on ahead and called Jim Richards, and I was extremely confused about it.

Chairman ROTH. Extremely what?

Mr. WRIGHT. I was confused by it. You don't normally try and help somebody out and have them attack you, even in this town. [Laughter.]

Particularly within the PCIE. Then I was further shagrined to find out—and by the way, the Merit Systems Protection Board came up with their finding and found absolutely no credence in the charges that Mr. Harvey brought either against Mr. O'Connor or myself, and if you want to go through it in this case, you really ought to bring Mr. O'Connor up.

Then I found out through a telephone call that came in, an anonymous phone call to my office 2 weeks after the final charges against Mr. Harvey—and this was evidently from somebody in the inspector general's office—that Mr. Harvey had said that there was a vendetta and there was a witch hunt against Joe Wright, and he's going to take him down with him.

Then about a week or so later, again, my executive assistant received a call from the exact same person and says that he is really pursuing this, he is going to bring it to a head, he is going to bring down Joe Wright and I think it is wrong.

Senator GORE. Who was saying that, if I may?

Mr. WRIGHT. This was an anonymous phone call.

Senator GORE. An anonymous phone call?

Mr. WRIGHT. Right.

Chairman ROTH. Did I understand he called you twice?

Mr. WRIGHT. He called my executive assistant twice.

Chairman ROTH. How did she know it was the same person, by the voice?

Mr. WRIGHT. I guess so.

The only reason I mention that is because of the fact that I was surprised; I was disappointed, and I was a little hurt because of the fact that I had tried to help Mr. Harvey out. And I still don't understand why he——

Chairman ROTH. You said that you were trying to help Mr. Harvey?

Mr. WRIGHT. Yes.

Chairman ROTH. I am not clear exactly how you were trying to help him.

Mr. WRIGHT. The special counsel at the Merit Systems Protection Board was more than willing to go and take a simple letter of reprimand from Mr. Harvey. As it was, they went and fought the case out, and the way I understand it was Mr. Harvey——

Chairman ROTH. Would you speak a little louder?

Mr. WRIGHT. They fought the case out, and my understanding is that the case came down against Mr. Harvey and he was demoted from, I believe, the SES to a GS—I think it was a 14, several grades. He blamed me for that.

Chairman ROTH. So the record would show, you say the case was fought out; it was fought out before whom, under what procedures?

Mr. WRIGHT. Well, I don't really know the Merit Systems Protection Board procedures, Mr. Chairman, but it was between Mr. Harvey and the Merit Systems Protection Board. You will have to ask them exactly what their procedures are. I have never gotten into them.

Chairman ROTH. Why did the special counsel contact you? What was the reason that you were the one he turned to?

Mr. WRIGHT. He had tried to reach a compromise with the inspector general at the Department of Energy for sometime. He was not able to do it. I am the chairman of that council, and so he called me and said, "Can't you referee this a little bit? Let's try to have a situation where we do not have to have two PCIE members fighting before the Merit Systems Protection Board." He was trying to resolve the case, and he was asking for help.

Chairman ROTH. So it was in your capacity as chairman that you were contacted, as you understand it?

Mr. WRIGHT. Yes, sir.

Chairman ROTH. Let me ask you this question: When the call was made, did you know Mr. Harvey?

Mr. WRIGHT. No, sir, not to my knowledge. Like I said, I may have met him somewhere sometime, but I had no idea who he was.

Chairman ROTH. Did you have any knowledge that he was involved in any way in the enforcement proceedings against Anchor?

Mr. WRIGHT. Absolutely not. I found that out from a reporter about 1 month or 1½ months ago, and I told them, "This is bizarre. This sounds like Edge of Night or As the World Turns." [Laughter.]

Chairman ROTH. So at the time you were called, you had no knowledge of Mr. Harvey or his association with your family firm?

Mr. WRIGHT. None at all, sir.

Chairman ROTH. You said you tried to help him. How did you try to help him? I mean, did you intercede? How did you intercede to help him?

Mr. WRIGHT. I was responding to a request from Special Counsel O'Connor who said that, "Either, I am going to get the letter or reprimand"—which is not a serious reprimand, I don't think, Mr. Chairman—"or I am going to take this case on through the Merit Systems Protection Board, and I'm going to win." He says, "And I don't particularly feel like fighting within the PCIE, and I will accept a letter of reprimand."

So what I was trying to do is I was trying to go and get, if you want to call it, a lesser penalty when the special counsel had already agreed to take that.

Chairman ROTH. Again, who rejected that recommendation?

Mr. WRIGHT. Jim Richards, who is the inspector general in the DOE, and I assume Mr. Harvey did. I assume he was speaking for Mr. Harvey.

Chairman ROTH. Then the matter was pursued, and it is your understanding that Mr. Harvey was reduced in rank?

Mr. WRIGHT. Yes, sir.

Chairman ROTH. By two grades?

Mr. WRIGHT. Well, the only thing that I saw, and have to say that I didn't even read the findings that were sent to me by Bill O'Connor after charges were brought against me by Mr. Harvey. It said from the SES to a GS-14. So I'm assuming that that is two.

Chairman ROTH. Were you in any way involved in those proceedings that reduced his rank?

Mr. WRIGHT. No, sir, not at all. Once I called back Special Counsel O'Connor and told him that they would not go along with any type of a reconciliation on this, then that was it. The next time I saw it, was when I saw the charges being brought against me.

Chairman ROTH. Let me make sure I understand when those charges against you were made. Was that sometime after the reduction or sometime before?

Mr. WRIGHT. No, that was before. That was basically charges that were brought against Special Counsel O'Connor and against myself for improper dealings in this case, and the Merit Systems Protection Board found not only were they totally without merit, but that the lawyer that brought them didn't even have any basis for bringing them.

Chairman ROTH. Are those findings in writing?

Mr. WRIGHT. Yes, sir.

Chairman ROTH. Do you have a copy of them? Will you provide them for the record? [1]

Mr. WRIGHT. Yes, sir. I would be glad to.

Senator GORE. Mr. Chairman, would you yield briefly on that point?

Chairman ROTH. Yes.

Senator GORE. As I understand, you have never had a conversation with Mr. Harvey; is that right?

Mr. WRIGHT. I don't recall a conversation. I can almost say for certain, Senator.

Senator GORE. And you tried to help him by getting him a letter of reprimand?

Mr. WRIGHT. I was trying to help him get a reconciliation to the point where he wouldn't go through a serious adverse action against him, where the special counsel—and I have to take his word for it—said he had a serious case against Mr. Harvey.

Senator GORE. Mr. Chairman, if you are going to put the material on Mr. Harvey in the record, I mean, I thought this was principally about Mr. Wright, but if you are going to put that material in the record, I would like to say just briefly for the record that having looked closely at this whole enforcement fiasco for the last 4 years, I know Mr. Harvey as one of the very few people or one of the group of people within the Department of Energy who has insisted upon enforcing the law, who has insisted upon trying to collect overcharges, and has incurred the incredible wrath of his superiors who wanted to eliminate not only the enforcement program, but the entire Department of Energy. They transferred these people willy-nilly; they took a variety of personnel actions against them when all they were really trying to do is to enforce the law and recover these billions of dollars that the oil companies had illegally taken from the American people.

So I think any kind of a personnel action put in this record with reference to Mr. Harvey should absolutely be seen in that light, because I know what kind of retribution was visited upon them for simply trying to do their jobs.

Senator EAGLETON. Yes; and I also ask, Mr. Chairman, that when you put this material in the record, we want to put in the record the material where the oil industry tried to get Mr. Harvey fired, and we want to put in the record the material when Mr. Harvey was proceeding against Canal Refining Co., Mr. Wright's company.

Chairman ROTH. Let me, if I might——

Senator EAGLETON. Well, Mr. Chairman——

Chairman ROTH. If I might just——

Senator EAGLETON. Mr. Chairman, you have spent about 1½ hours going into the bottom paragraph of the Wall Street Journal article. You are really hitting on all fours on the Harvey matter. That is fine. Harvey was the enemy of the oil industry; the oil industry wanted to get him. They got him.

We want to put that in the record. And Canal Refining Co., didn't like Mr. Harvey, because he was after them, and he almost got them until there was a phone call made, and so we want to put all that in the record, too. We will have a nice, tidy record. But you have just spent 30 minutes on the bottom paragraph of the Wall Street Journal article. When are you going to mention these other fellows on pages 1, 2 and 2½ about what they said about the fix.

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[1] The information was provided by Mr. Wright's counsel, with a letter. That letter and a letter provided by Mr. Harvey's counsel are printed as an appendix to this hearing record. The submissions are retained in committee files.

Chairman ROTH. Senator Eagleton, as I pointed out last week, I sat and listened long to your questioning of various witnesses and raised no objection.

Senator EAGLETON. No.

Chairman ROTH. All I am saying here is, the purpose of these hearings, the one today, is not to determine whether or not the Department of Energy properly enforced the law with respect to the oil industry. I think the purpose of these particular hearings are to determine whether or not one, Mr. Wright did any wrongdoing in calling the office as was discussed; and two, whether or not he played any kind of improper role with respect to the disciplinary action of Mr. Harvey.

These hearings have been held today upon mutual agreement, and as I said, we intend to let everyone have his opportunity and, of course, to continue the investigation.

But at this point, I am trying to find out from Mr. Wright and give him the opportunity to explain as to what he understood was the matter and of course, he is testifying under oath.

Let me ask you one more question, if I may, Mr. Wright. Did you ask anyone, directly or indirectly, to discipline Mr. Harvey?

Mr. WRIGHT. No, sir, what I was trying to do, again—and I want to be very clear in this. I was trying to tell Mr. Richards that the special counsel of the Merit Systems Protection Board was going to proceed with disciplinary action and was there not a way to find a resolution to this. And at the special counsel's request, I did mention a letter of reprimand as, if you want to call it, the lesser penalty that he could take that would be satisfactory to the special counsel.

Chairman ROTH. Senator Eagleton?

Senator EAGLETON. Mr. Chairman, I ask unanimous consent that the entire Wall Street Journal article of May 7, 1985, be printed in the record.[1] I suggest it go in after that Department of Energy summary that was placed in the record.

Chairman ROTH. Without objection.

Senator EAGLETON. Mr. Wright, I think it will help us if we can understand a little bit about Anchor Gasoline and Canal Refining. Anchor Gasoline, the president of it is Joe R. Wright. That is your dad, right?

Mr. WRIGHT. Whether he is chairman or president, Mr. Eagleton, I'm not exactly sure. There is another family——

Senator EAGLETON. Well, he is the CEO; he is the chief executive officer.

Mr. WRIGHT. I can't tell you exactly——

Senator EAGLETON. Is he the big shot who runs the company?

Mr. WRIGHT. He is the primary one that is responsible for running the company.

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[1] See p. 12.

Senator EAGLETON. Whatever he is called. And he owns a lot of stock in Anchor, percentage-wise.

Mr. WRIGHT. No, sir, he owns a minority share. The Mockley family owns the majority share.

Senator EAGLETON. The Mockley family owns the majority share?

Mr. WRIGHT. The majority share, yes, sir.

Senator EAGLETON. Are they any relation to the Wright family?

Mr. WRIGHT. No, sir, they are not.

Senator EAGLETON. You have some brothers and sisters.

Mr. WRIGHT. I have two sisters.

Senator EAGLETON. All of you own a piece of Anchor, right?

Mr. WRIGHT. We have slowly been given shares from my father over the years. We own equal shares.

Senator EAGLETON. How much of Anchor do you own today?

Mr. WRIGHT. I believe I own about 22 shares, which is around 3 percent of the company.

Senator EAGLETON. Three percent of the bank. What is the relationship between Anchor and Canal, Canal Refining?

Mr. WRIGHT. I can't tell you exactly, Mr. Eagleton. Since I am on the record, I wouldn't like to guess. I could come pretty close to it.

Senator EAGLETON. Give us your close guess.

Mr. WRIGHT. All right. I believe Anchor primarily handles the crude oil refining.

Senator EAGLETON. Yes.

Mr. WRIGHT. And I believe that Canal handles the gas processing, the truck distribution and the retail outlets.

Senator EAGLETON. That is what Anchor does?

Mr. WRIGHT. No, no, no, I think that is Canal.

Senator EAGLETON. Canal is gas distribution and retail?

Mr. WRIGHT. I believe that is so, Mr. Eagleton, but I'm sure there is other things——

Senator EAGLETON. Methane; I think we have got something there. Methane, is that involved in Canal?

Mr. WRIGHT. I don't know where methane would be.

Senator EAGLETON. Between Anchor and Canal, they pretty well cover the oil and gas industry, Anchor does some things and Canal does some other things; would that be a fair little summary?

Mr. WRIGHT. That is my understanding.

Senator EAGLETON. OK. How much do you own of Canal?

Mr. WRIGHT. I don't think the stock is separated up between the two.

Senator EAGLETON. Isn't Canal a sub of Anchor?

Mr. WRIGHT. It is either a sub of Anchor or Anchor is a sub of Canal. I don't know which is which.

Senator EAGLETON. OK. But whatever it is, whoever is the sub of whom, you own 3 percent of Anchor-Canal?

Mr. WRIGHT. I think it is around 3 percent.

Senator EAGLETON. OK. Your prosperity, in some part, would be enhanced. If Anchor-Canal does well, you will do well. That is self-evident for any stockholder in any corporation.

Mr. WRIGHT. Mr. Chairman—I'm sorry. Mr. Eagleton, this is a closed private corporation. I would say that eventually, I will do better. But the event that would cause me to eventually do better I wouldn't particularly relish. In other words, my father would die.

Senator EAGLETON. Oh, yes, regarding your stock and your dad's stock, the better those two corporations do, the better it is for the Wright family, your dad, you have two sisters, yourself.

Mr. WRIGHT. That is obvious, Mr. Eagleton.

Senator EAGLETON. The Anchor dispute with the DOE, when all added up came to $16 million or thereabouts. Have you learned that? You didn't know that when you made the phone call, but have you learned that since?

Mr. WRIGHT. I have not learned that, because I read that in the Wall Street Journal, and I saw numbers all the way from zero to $7 million to $5 million to $16 million. I had no idea what the number was.

Senator EAGLETON. And the dispute with DOE about Canal comes to about $23 million.

Mr. WRIGHT. I have no idea.

Senator EAGLETON. When all of this hit the press, and it is after the facts, did you call up your dad and say "Dad, I have got to testify up there. What the hell did this mean to our company?"

Mr. WRIGHT. No, sir, I did not. What I did do, I was dying of curiosity about 2 months ago when I heard the investigation was first under way.

Senator EAGLETON. Which investigation, the Wall Street Journal or the FBI?

Mr. WRIGHT. The inspector general's investigation.

Senator EAGLETON. The inspector general.

Mr. WRIGHT. That's right.

Senator EAGLETON. When did you hear of it, by the way? When did you hear about the FBI?

Mr. WRIGHT. I can't give you an exact date on that. I will give you a guess. March.

Senator EAGLETON. OK. You heard the inspector general's——

Mr. WRIGHT. By the way Senator, that is a guess. I just don't know.

Senator EAGLETON. You heard the FBI was looking into it. You heard Congressman Dingell was looking into it at a later date, I guess.

Mr. WRIGHT. Yes; I believe I did.

Senator EAGLETON. Somewhere along the line, did you call your dad and say, "Dad, let's learn about this and what did this mean to Anchor and Canal?"

Mr. WRIGHT. No, I did not do that. I called him, and I said, "There are some investigations under way." I said, "I'm curious. Was this issue ever resolved?" And he said no.

Senator EAGLETON. Never resolved?

Mr. WRIGHT. It was never resolved. I said, "You have got to be kidding me," 2½ years later, and he said no, it was not.

Senator EAGLETON. That was the end of the conversation with dad?

Mr. WRIGHT. That was the end of the conversation with dad. I asked him, I said, "By the way, who ever went in?"

Senator EAGLETON. Who ever what?

Mr. WRIGHT. Went in and met with Hanzlik. I said, "Were you there?" And he said no, and I said OK, and that was it, and I had no further discussion on it. I did not discuss this case with my father.

Senator EAGLETON. Two years and a half later. You said you were curious.

Mr. WRIGHT. Yes; I am dying of curiosity.

Senator EAGLETON. Weren't you curious about what this meant to Anchor and Canal?

Mr. WRIGHT. I might be curious.

Senator EAGLETON. $16 million on the one hand; $23 million, or $39 million.

Mr. WRIGHT. I might be curious. I might be curious, Mr. Eagleton, but I have stayed totally out of this case, period.

Senator EAGLETON. The case was never resolved. You see, Mr. Wright, that is where your case blows up. You asked us rhetorically why would anyone want to delay this. You and your dad wanted to chug this thing along. Man, you want a quick justice. You are calling in 9 days later after the call was made for that quick justice.

The reason you and your dad didn't want it resolved is just what you said in your statement, it was never resolved because it never went into the Federal Register, which is the triggering process by which you recover the money. If it isn't filed in the Federal Register you can't begin the process of getting the $39 million back.

Second, you knew that DOE was going out of business, or you felt that. You were in charge of the wrecking crew. You were one of the guys to get it to go out of business, so if they went out of business, there would be no money recovered from Anchor or from Canal.

Senator RUDMAN. Would the Senator yield for a question, Senator?

Senator EAGLETON. Just a minute, just a minute, just a minute.

And the longer you could delay it, market conditions might improve, and finally, if no actions were ever brought, in the de facto situation we have here today, not one dime has ever been collected from the Reagan administration from Anchor and Canal and Senator Gore can give you a list a mile long, because that became the department of the super fix, the collection of money owed in the entitlement program, the new oil, the old oil fix. So you are going to have this committee believe that you put in this call 9 days after the case was filed, getting ready for publication and that what you and dad wanted was, "Pardon me boy, Chattanooga express justice," and what you got was the slow train to save Anchor and Canal $39 million. Anchor and Canal aren't Mobil, aren't Exxon.

Thirty-nine million dollars is pretty big dollars to Anchor and Canal, and they have never paid a cotton picking penny, and you have never inquired of dad. Even in your most recent telephone call to him, you were curious. "Dad, wasn't that thing ever resolved?" Dad says, "Funny thing, son, funny thing. It never was resolved."

Now, Senator Rudman, do you believe that?

Senator RUDMAN. Senator Eagleton has been on this committee long enough to know I am not here to protect any administration witness. My asking you to yield was to have you clear up a point for papers you submitted to the committee, Senator. I am going to ask you what your 9-day quote is.

I am trying to follow your record here, because I have your chronology in front of me, and I can't understand it.

Senator EAGLETON. Nine days is 9 days after the PRO thing. September 14, formal charges against Anchor were issued administratively but not filed in the Federal Register. Then the clock starts to run. Then you have got a live case. September 14. On September 23 is the time that Wright calls Hanzlik, the now famous 2-minute phone call.

Senator RUDMAN. I see your record here or somebody's record shows October something. I wasn't sure we were talking about the same phone call. That was the reason for my question.

I would also ask Senator Eagleton if he can clear up one point for me. On this enforcement history that your staff handed out, this first entry, July 23, 1979, is that the beginning of this whole matter, or is that a different matter?

Senator EAGLETON. That is the beginning as far as we can get from Mr. Hanzlik at the Department of Energy. Well, obviously, we will have him here before us, and we take his submission for what it is worth.

Senator RUDMAN. So that is when this all begins, in 1979?

Senator EAGLETON. From that record, I would presume so, the first audits, and probably one of those early audits was done by Mr. what's-his-name.

Senator RUDMAN. There was notice of violation here served on him in September 1979. That is why I asked that question.

Senator EAGLETON. So to this date, Mr. Wright, family meetings, Christmas, you go home for Christmas, he gives you tickets; go home for Easter, I guess, and you meet with your dad and sisters. You never sat down and talked about $39 million worth of potential obligations that Anchor and Canal still owe Uncle Sam?

Mr. WRIGHT. Mr. Eagleton, as you mentioned before, you know, I have been involved with inspector generals; I do know what is right and what is wrong. I do know specifically that you do not get in the midst of a case when a family company is involved, and I did not discuss the case with my father at Christmas or Easter or on the phone call.

Second, when I called Mr. Hanzlik, what you are basically saying is that there are three people who are all lying about what happened in that conversation, Mr. Hanzlik, my executive assistant, who has been in a career in Federal Government for a long time, over 20 years, and myself. I did not ask for a fast train at all. I simply asked for a meeting. Third, when you are talking about the reorganization——

Senator EAGLETON. This is Miss Ferko. She wasn't at the meeting, was she, that took place between Anchor folks and Hanzlik?

Mr. WRIGHT. No, sir. She was there at the telephone call with Mr. Hanzlik.

Senator EAGLETON. We will get into that in a minute. I am not saying she is lying.

Mr. WRIGHT. Pardon me, Senator, well, that is what you inferred. You mentioned the Department of Commerce and the Department of Energy reorganization. That was not to do away or dismantle the Department of Energy. That was to combine the two departments. Unfortunately, Secretary Baldrige and myself had a very difficult time trying to convince people that that is exactly what it was.

Those energy regulatory agencies would not have been changed, as far as I can remember, one lick.

Senator EAGLETON. Senator Gore will get into that. He is an expert on it. As he points out, it has been a mockery how the collection program has proceeded under the Reagan administration. He will get into it in a minute. Let's talk about Miss Ferko. Is that her name?

Mr. WRIGHT. Ferko.

Senator EAGLETON. You are putting her on the line.

Mr. WRIGHT. No, sir, she was not on the line. I asked her to come into the room.

Senator EAGLETON. You testified that is not a normal thing you do, to bring someone in. "I do remember it, because I was very careful."

Mr. WRIGHT. That's right.

Senator EAGLETON. Those were your words. So you knew, when you brought Mrs. Ferko in the room you were making a hot call.

Mr. WRIGHT. No, sir, I did not know I was making a hot call, and I really don't appreciate you saying——

Senator EAGLETON. It was not a normal thing to do.

Mr. WRIGHT. It was when you are being careful and you have a witness, and you want the proper thing to do, not the improper that you have a witness there and with you.

Senator EAGLETON. You wanted someone else in the room while you, the Deputy Director of OMB, called a high level man named Hanzlik at DOE about your family business. You knew that that was a sticky enough wicket that you wanted Miss Ferko there to hear your end of the conversation.

Mr. WRIGHT. And I knew that if either—if the request in any way would have been improper, Mr. Hanzlik is a professional; he would have told me and Miss Ferko is a professional, she would have told me.

Senator EAGLETON. How many times have you called Miss Ferko in to hear one end of your telephone conversations? You said——

Mr. WRIGHT. I can't recall any time that I have ever done it, Senator, because I only have one family company.

Senator EAGLETON. This is unique. This is unique.

Mr. WRIGHT. I only have one family company.

Senator EAGLETON. How long have you been with the Government, Mr. Wright?

Mr. WRIGHT. I have been in approximately 4-plus years this time.

Senator EAGLETON. In 4-plus years.

Mr. WRIGHT. Pardon me. I am not finished, Senator.

Senator EAGLETON. Sorry.

Mr. WRIGHT. I was in the prior Republican administration for approximately a little over 5 years, and I was in the military under a Democratic administration at the Department of Defense for 2 years. So I have spent a total of about 11 years.

Senator EAGLETON. So your civilian history with the Government which is now 9½ years, approximately 10.

Mr. WRIGHT. I think it is probably a total of 11 years, going on 12.

Senator EAGLETON. Eleven years history with the Government, one time only that you call in someone to hear your version, your end of a phone call?

Mr. WRIGHT. Sir, you asked me whether or not I had ever called Mary Ann Ferko in to hear my version.

Senator EAGLETON. That is right. I will make it more generic. How many times in your close to 11 years in the Government have you called in a person, an individual, male or female, with you, a human being, to listen to your end of a telephone conversation?

Mr. WRIGHT. About 4 weeks after that, when Mr. Hanzlik called me back, I asked my secretary, Janet O'Connor, to come in.

Senator EAGLETON. That was the second time. We will get to that.

Mr. WRIGHT. Absolutely.

Senator EAGLETON. That wasn't Miss Ferko; that was the secretary.

Mr. WRIGHT. That's right.

Senator EAGLETON. So that was the second time in your 11 years in Government that you had someone in the room that listened to a conversation; that is when Hanzlik called you back.

Mr. WRIGHT. Senator, I'm sure that is not true. I'm sure that I have done that before, but I can't relate them for you.

Senator EAGLETON. So those were really, in your life time, extraordinary phone calls.

This matter about Mr. Harvey, did you know that Mr. Harvey was on the oil company hit list to get rid of?

Mr. WRIGHT. No, sir. I have never heard that before.

Senator EAGLETON. On June 8, 1981, a group of oil folks—including the Independent Gasoline Marketers Council; the National Oil Jobbers Council; the Society of Independent Gasoline Marketers of America; the Independent Fuel Terminal Operators Association—unilaterally wrote to Ronald Reagan complaining about tough people over at DOE and specifically said the Director of the Office of Enforcement—that is Mr. Harvey.

See, Reagan came in. The first thing he did when he took off his cut-away and had his little fight with Al Haig about how Haig was going to take over all of the Secretary of State, he decontrolled oil, and big oil and little oil were in ecstasy, and they thought that meant wipe the slate clean on all those damn enforcement cases out there totaling billions of dollars, but the civil servants didn't read it that way. They said, well, you can decontrol oil, and that applies in future, but all those billions of dollars in the past we are going to try to collect.

So one of the guys trying to collect, in principal, was the Director of the Office of Enforcement, and these oil company guys didn't like that.

Now, does Anchor or Canal belong to the Society of Independent Gasoline Marketers Association?

Mr. WRIGHT. I don't know, Mr. Eagleton.

Senator EAGLETON. You know, funny thing, they won't tell us. Why wouldn't they tell us whether Anchor or Canal belongs to that? They just won't. Could you call your father tonight and let us know by letter or some other method whether Anchor or Canal belongs to any of the following? We don't think so, but I will give you the names: the Independent Gasoline Marketers Council. The head of that outfit is a guy named Blum, Jack Blum; the National Oil Jobbers Council. The head of that is Phillip Chisolm; then the Society of Independent Gasoline Marketers of America. Timothy Columbus seems to be the leader of that.

Mr. WRIGHT. What is the third one again?

Senator EAGLETON. I beg your pardon?

Mr. WRIGHT. What is the third one again?

Senator EAGLETON. The third one is the Society of Independent Gasoline Marketers of America, Timothy Columbus; and then the fourth one is the Independent Fuel Terminal Operators Association. That is headed by a fellow named John Zintay.[1]

I ask unanimous consent that this letter to Ronald Reagan from the aforesaid gentleman, Mr. Chairman, be printed in the record at this point.

Chairman ROTH. Without objection.

[The letter referred to follows:]

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[1] Subsequent to the hearing the committee was informed by R.N. Dunagan, counsel for Anchor and Canal, that neither corporation is a member of any of the four organizations listed above.

June 8, 1981

Honorable Ronald Reagan
The White House
Washington, D.C. 20500

Dear Mr. President:

The undersigned associations, representing thousands of independent gasoline and fuel oil marketers throughout the nation, are writing to express our serious concern about certain recent actions of the Department of Energy (DOE).*/ Our associations and our members have strongly supported your efforts to reduce Federal government control and regulation of the petroleum industry.

Our concern is centered on the apparent lack of Administration control over the Department of Energy bureaucracy. That bureaucracy has, since the closing days of the Carter Administration and since January 20, engaged in a series of activities designed to undercut your attempts to reduce government regulation. The only way to bring this "runaway bureaucracy" under control is through direct action by you and your staff.

Particular attention should be given to the activities of the Economic Regulatory Administration (ERA), which you criticized in your address to the Congress on February 18. ERA officials have taken full advantage of the apparent lack of strong leadership at the Department of Energy. The most recent and most blatant of their actions is the unilateral revocation by a career civil servant of the principal restraint placed on the ERA Office of Enforcement by the Carter Administration. That restraint was a policy that limited the opening of new audits of petroleum marketers to those cases where the Department had reason to believe a violation might exist.**/

Since last November, the Office of Enforcement has initiated and reactivated a substantial number of audits of smaller companies, hoping to use the increased case load as a justification for its continued existence. One small firm went to Federal court, seeking to stop an audit on the grounds that it violated the ERA's audit policy. The court agreed, ruling that the ERA had gone beyond the bounds of its stated policy.***/ In response, the Director of the Office of Enforcement unilaterally revoked the policy, without hearing or notice.****/

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*/ A brief description of the associations is attached (Attachment A).

**/ 43 Fed. Reg. 27782, June 27, 1978.

***/ U.S. v. Tobins, Civ. Act. No. 80-2064-K (April 20, 1981, D. Mass). The ERA official may also have exceeded the limits of the authority delegated to him by the Secretary of Energy and the Administrator of the ERA.

****/ For your information, we have attached a copy of the original policy statement, the court opinion and the notice of revocation. (Attachments B, C and D).

His action sends a clear message to the small, independent companies in the petroleum industry: the DOE intends to bring more pressure and place more burdens on small businesses in the months and year ahead; there will be more, not less, government interference.

Surely these recent activities by the DOE bureaucracy do not reflect the considered policy of your Administration. Accordingly, we believe that they deserve high level attention and action to establish control over and restore balance to the work of the ERA Office of Enforcement.

If you wish any further information on this subject, we will be happy to meet with any member of the White House staff and to do our best to be of assistance.

Respectfully submitted,

INDEPENDENT GASOLINE MARKETERS COUNCIL

Jack A. Blum

Jack A. Blum, Counsel

Now called Petroleum →
Marketers Assoc of America

NATIONAL OIL JOBBERS COUNCIL

Phillip R. Chisholm

Phillip Chisholm, Executive Vice Presi

SOCIETY OF INDEPENDENT GASOLINE
MARKETERS OF AMERICA

Timothy Columbus

R. Timothy Columbus, Counsel

INDEPENDENT FUEL TERMINAL OPERATORS
ASSOCIATION

John M. Zentay

John H. Zentay, Counsel

ATTACHMENT A

INDEPENDENT GASOLINE MARKETERS COUNCIL

The Independent Gasoline Marketers Council (IGMC) is a trade association of non-branded retailers of motor gasoline operating large groups of stations in 45 states.

NATIONAL OIL JOBBERS COUNCIL

The National Oil Jobbers Council (NOJC) is a federation of 46 state and regional trade associations representing thousands of independent small business petroleum marketers. Members include gasoline and diesel fuel wholesalers, commissioned distributors of gasoline, gasoline reseller-retailers and a large number of retail fuel oil dealers. Members also wholesale or retail many other petroleum products, including kerosene, LP gas, aviation fuels and motor oils as well as residual fuel oil. Together NOJC members market approximately 50 percent of the gasoline and 90 percent of the home heating oils sold in America under either their own private brand or the trademark of their supplier.

SOCIETY OF INDEPENDENT GASOLINE MARKETERS OF AMERICA

The Society of Independent Gasoline Marketers of America (SIGMA) is a trade association composed of 227 independent private brand chain retailers of motor gasoline operating in 49 states, Puerto Rico and the District of Columbia.

INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION

The Independent Fuel Terminal Operators Association (IFTOA) is composed of 16 companies which operate deepwater terminals along the East Coast from Maine to Florida. None is affiliated with a major integrated oil company. Members of the Association are independent marketers of No. 2 fuel oil, No. 6 fuel oil, gasoline and other petroleum products.

They distribute nearly 50% of the No. 2 fuel oil consumed in New England and nearly 30% of the No. 2 fuel oil consumed along the East Coast. They distribute nearly 60% of the residual fuel oil burned by non-utility consumers in New England and nearly 50% in the Middle Atlantic states.

INDEPENDENT TERMINAL OPERATORS ASSOCIATION

The Independent Terminal Operators Association (ITOA) is composed of 14 non-branded independent marketers of petroleum products which own and operate terminals primarily on the inland waterways. Members market petroleum products in more than 38 states.

NEW ENGLAND FUEL INSTITUTE

The New England Fuel Institute (NEFI) is an association of 1,264 independent retail and wholesale home heating oil distributors throughout the six New England states. The independent marketers serve 2.43 million retail home heating oil consumers and distribute 86% of the approximately 3.5 billion gallons of No. 2 home heating oil sold in the New England area at the retail level, and 47% of the gallonage sold at wholesale. Oil is used to heat more than 71% of all buildings in New England, both commercial and residential. Members of the association also market residual fuel oil and gasoline at the wholesale and retail levels.

SOUTHEASTERN INDEPENDENT OIL MARKETERS ASSOCIATION

The Southeastern Independent Oil Marketers Association (SEIOMA) represents approximately 250 of the non-branded independent gasoline retailers in North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi and Tennessee.

EMPIRE STATE PETROLEUM ASSOCIATION

The Empire State Petroleum Association (ESPA) represents over 500 independent retail home heating oil marketers and approximately 400 independent gasoline jobbers who serve every part of New York State. New York has a greater number of oil-heated homes and consumes more home heating oil than any other state.

ATTACHMENT B

ERA STATEMENT OF POLICY

43 F. R. 27777 (June 27, 1978).—SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy is adopting an amendment to the recordkeeping requirements of the General Allocation and Price Rules. In addition, this notice sets forth the ERA's policy as to new audits and the period of civil liability of firms as a result of any new audits.

II. Discussion

D. *Audit policy*—1. *Liability periods.* An additional consideration that bears upon a sound and fair enforcement policy is the desirability of not allowing the period of exposure for civil liability (i.e., civil penalties, refunds, price rollbacks) to continue indefinitely. The ERA notes that federal laws generally limit the period of potential criminal liability, e.g., 18 U.S.C. 3282 which provides for a five year limitation. There is, however, no commensurate federal statute limiting the period of potential civil liability. The ERA believes that it is appropriate as a matter of prosecutorial discretion to impose upon itself such a limitation as to certain categories of firms at which audits had not been initiated prior to July 1, 1978.[1]

2. *Policy.* Pursuant to the policy adopted today (Appendix A), the ERA will commence no new audits for determining compliance with the price regulations after June 30, 1978 at resellers (viz., resellers, reseller-retailers or retailers as defined in 10 CFR 212.31) of petroleum products other than propane, or at small resellers of propane, except on suspicion of a willful violation of price or allocation regulations, by reason of complaints or other credible indications of significant violations, or if the firm has been afforded an exception or other special relief from the price regulations. Should any audit of these resellers, not involving criminal liability, be opened after June 30, 1978, civil liability will be imposed for only those violations occurring in the two years prior to commencement of the audit.

Audits at firms not included in the above categories may be commenced after June 30, 1978. In such cases, however, civil liability, in the absence of criminal liability, will not extend to transactions that occured further back than the five years prior to the commencement of the audit. This policy will not apply at all, however, to crude oil producers, crude oil resellers (including the crude oil production, sale, and resale activities of refiners), or to instances of criminal conviction for transactions covered by price regulations.

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[1] For purposes of this policy, audits of the 34 major refiners presently conducted by the Office of the Special Counsel are deemed to have been initiated upon the date of the office's activation, December 4, 1977.

3. *Reasons for the policy.* The ERA views this policy as striking a reasonable balance between two competing considerations—the enforcement of price regulations and the granting of certainty to firms as to the extent of their civil liability.

Applying a less stringent compliance policy to petroleum product resellers not engaged in refining is not unique to the policy announced today. Congress, in section 106 of the Energy Conservation and Production Act (Pub. L. 94-385) enacted special provisions concerning retroactive application of rules and regulations to independent marketers and, in section 452 of the Energy Policy and Conservation Act (Pub. L. 94-163), imposed lesser penalties for violations occurring at the wholesale and retail levels than for violations occurring at the production and refining levels.

ERA has, to date, intensively audited resellers of petroleum products other than propane. Over the life of the reseller audit program, the ERA and its predecessors have audited or investigated more than 3,000 reseller firms. In addition, the ERA has utilized information received through its past audits and the filings of its Form P127-P-0, Selected Petroleum Products Price Information Report, in targeting audits at large resellers with annual sales in excess of $2 million. The ERA has expended significant efforts in auditing embargo period violations for resellers of petroleum products other than propane. Any future targeting of such audits will be based upon complaints or other credible indication of significant violations. All such future audits will cover current violations, not embargo period violations, and will impose civil liability for only the two year period prior to commencement of the audit. This policy relieves all of approximately 21,600 resellers of petroleum products from undergoing new audits commenced after June 30, 1978, except for the reasons already noted.

The Federal Energy Administration announced the decision not to commence audits at the over one-quarter million retailers of refined petroleum products in its budget submission to the Congress for fiscal year 1977. Cost/benefit judgments have since confirmed the appropriateness of that decision, which also had the effect of relieving numerous small businesses of the burdens posed by audits under the regulations.

To date, far fewer propane resellers have been audited in comparison with non-propane resellers. In addition, the ERA has not utilized a method of targeting embargo period violations by propane resellers. The ERA believes that the time is not ripe for reducing the liability period, and especially the embargo period liability, for large propane resellers. The ERA, therefore, has decided to establish a five-year liability period at such firms in order to retain the ability to recover overcharges that may have occurred during the embargo period. Notwithstanding these considerations, the ERA has decided that small propane resellers should be subject to the same policy regarding the opening of new audits and the duration of civil liability as is applicable to resellers of petroleum products other than propane. This decision is based upon the special difficulties of small propane resellers in facing contingent liabilities for pricing violations for periods of substantial duration. Small propane resellers are defined for purposes of this policy as having less than $2 million in sales of propane during 1977. Where a reseller sells both propane and other petroleum products, its status and treatment as a large or small propane reseller will be determined exclusively by its propane sales. Although industry sources report that approximately 12,500 resellers sell propane, it is estimated by DOE that only 125 independent propane resellers have annual sales exceeding $2 million. Thus, after June 30, 1978, under this policy over 12,000 firms will not be the subject of new propane audits. The remaining

125 firms subject to audit account for almost 60 percent of all propane sales made by independent marketers.

The ERA has determined not to establish at this time a date by which new audits must be commenced in other enforcement programs. Different considerations bear upon enforcement strategies at refiners, NGL processors, crude oil resellers and producers. Due to continued price controls over crude oil and the approximately six dollar differential between lower tier and upper tier crude oil, the ERA believes that there are substantial incentives for unlawful conduct and that its continued audit presence, including the opening of new audits, is required. In addition, with over $200 million net cash transactions on about $1 billion worth of entitlements sold and purchased by refiners each month, it is necessary for the ERA to maintain the integrity of that program. It is, therefore, not desirable for the ERA to announce time limits on openings of new audits of refiners, NGL processors, crude oil resellers and producers at the present time.

As previously stated, however, when new audits are commenced at firms other than resellers, civil liability, for past transactions will, absent criminal liability involving violations of ERA regulations, be limited to transactions that occurred in the five years prior to the date of the opening of the audit. Due to the unique circumstances surrounding the production sale and resale of crude oil, the five year limitation of civil liability provisions does not apply to crude oil producers, crude oil resellers or to the crude oil production, sale and resale activities of refiners.

III. OTHER MATTERS

The ERA finds that for good cause this final rule shall be effective June 30, 1978. The purpose of the amendment is simply to require that certain records already required to be maintained continue to be so maintained. The ERA finds that it is necessary for this amendment to be effective prior to July 1, 1978, in order to assure the continued maintenance of these records, which are essential to the enforcement of the regulations promulgated pursuant to the Emergency Petroleum Allocation Act of 1973. Accordingly, the ERA finds that giving 30 days notice prior to the effective date of this final rule would be impracticable, unnecessary, and contrary to the public interest, and that good cause exists for amending § 210.92, effective June 30, 1978.

The ERA stated in the Notice of Proposed Rulemaking that it had determined that the proposed rule was not subject to the requirements of the Federal Reports Act, as amended, 44 U.S.C. 3509 for submission of certain proposed revisions in plans or forms concerning the collection of information to the Director, Office of Management and Budget. The ERA nevertheless sent a copy of that Notice to the Director. The Office of Management and Budget responded to that Notice by informing the ERA that it agreed to its determination that 10 CFR 210.92 was not subject to the Federal Reports Act.

In accord with section 404 of the DOE Organization Act, the Federal Energy Regulatory Commission received a copy of the proposed rulemaking and determined that the proposed regulations would not significantly affect any function within its jurisdiction pursuant to sections 402(a)(1), (b), and (c)(1) under the DOE Act.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; E.O. 11790, 39 FR 23785; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267).

In consideration of the foregoing, Part 210 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective June 30, 1978.

Issued in Washington, D.C., June 23, 1978.

APPENDIX A—DEPARTMENT OF ENERGY, ECONOMIC REGULATORY ADMINISTRATION

STATEMENT OF POLICY REGARDING AUDITS BEGUN AFTER JUNE 30, 1978 TO DETERMINE COMPLIANCE WITH THE MANDATORY PETROLEUM PRICE REGULATIONS

A. It is the policy of the Economic Regulatory Administration (ERA) not to commence any price regulation audits after June 30, 1978, of: (1) Any resellers, reseller-retailers or retailers (as defined in 10 CFR 212.31) of petroleum products other than propane, or (2) small resellers, small reseller-retailers or small retailers of propane, except on suspicion of a willful violation of the price regulations, by reason of complaints or other credible indications of significant violations, or if an exemption or other special relief from the price regulations has been afforded. Resellers, reseller-retailers or retailers (as defined in 10 CFR 212.31) of propane are considered to be small if they had less than $2 million in sales of propane during calendar year 1977.

B. It is the policy of the ERA not to seek, as a result of price regulation audits commencing after June 30, 1978, to impose civil liability on: (1) Any firm described in paragraph A for transactions that occurred more than two years prior to commencement of the audit; or (2) Any other firm, except crude oil producers, crude oil resellers, and refiners as to their crude oil production, sale and resale activities, for transactions that occurred more than five years prior to commencement of the audit, except where a firm has been reviewed previously for transactions covered by price regulations.

[FR Doc. 78-17875 Filed 6-23-78; 11:31 am]

ATTACHMENT D

Withdrawal of Statement of Policy Regarding Audits Begun After June 30, 1978, To Determine Compliance With the Mandatory Petroleum Price Regulations

Effective immediately, the Economic Regulatory Administration (ERA) is withdrawing its Statement of Policy Regarding Audits Begun After June 30, 1978, to Determine Compliance With the Mandatory Petroleum Price Regulations (audit policy statement) (43 FR 27782, June 27, 1978). This action is being taken because of the recent federal district court decision, *United States of America, et al.* v. *Marshall Tobins, President, Weston Petroleum, Inc.*, No. 80–2064–K (D. Mass., April 20, 1981), in which the court declined to enforce an ERA subpoena on the ground that it was not in compliance with the audit policy statement. Immediately subsequent to the issuance of this decision, other firms filed complaints premised upon the April 20 decision seeking to enjoin ERA audits. Since it was not ERA's intent to establish an unvarying standard enforceable by third parties, which could frustrate the agency's judgment to undertake an audit, ERA has determined that the withdrawal of the audit policy statement best effectuates its intent leave with the Department of Energy the decision of whether to exercise its prosecutorial discretion to initiate audits.

Issued in Washington, D.C. on the 19th of May 1981.

Gordon W. Harvey,

Director, Office of Enforcement, Economic Regulatory Administration, Department of Energy.

[FR Doc. 81-15[illegible] Filed [illegible] am]

BILLING CODE [illegible]

Senator **Eagleton**. Now, again, with respect to Mr. Harvey, are you aware that he was one of the head investigators on the Canal refining case?

Mr. **Wright**. No, sir, not at all. The first time I heard that he might have even been involved in it was when I was talking to a reporter last month.

Senator **Eagleton**. OK. Take it from me, he was. In fact, it was his letter to Canal of January 22, 1981 that notified Canal that Canal was in big trouble.

So I ask unanimous consent, Mr. Chairman, that a letter from Stanley S. Mills that incorporates by reference the other letter addressed to Canal Refining Co., be put in the record. Mr. Harvey was a principal actor in proceeding against Canal Refining Co. So I ask that that go in the record.

Chairman **Roth**. Without objection.

[The letter referred to follows:]

Canal Refining Company
Attention: L. J. Dilldine
114 East 5th Street
Tulsa, Oklahoma 74103

27 JAN 19

Gentlemen:

This is to advise you that Canal has been selected for a data verification audit by the Economic Regulatory Administration (ERA) of the Department of Energy (DOE). Your firm received a letter dated January 22, 1981, from the Assistant Administrator for Enforcement, notifying you that the Department of Energy was intensifying its enforcement efforts of the Entitlements Program. As part of that effort, your firm was selected for audit. The purpose of this audit will be to determine if Canal is in compliance with DOE's regulations relating to the Entitlements Program. The audit which is scheduled to start on or about February 11, 1981, will cover the period from June 1980 to November 1980 but may be expanded as deemed necessary by DOE.

This letter constitutes a formal request that information relating to the data reported on the Refiner's Monthly Report (form ERA-49) be made available at the above noted address for our examination and reproduction. Such information shall include but not be limited to the following:

1. An overview of the firm's accounting system including flow charts and list of accounts. This overview should indicate the accounts used by the Entitlements Program and how the records eventually tie into the data submitted on the aforementioned form.

2. Copies of the Refiner's Monthly Reports for the applicable audit period including any amendments and letters notifying the DOE of any adjustments.

3. All source documents related to the reported types of crude oil purchased, exchanged and processed and related to the reported runs to stills. Examples of such documentation would be purchase invoices with accompanying oil tier certification, pipeline statements, monthly billing statements, run tickets, purchase journals, and sales journals.

4. Source documents and summary schedules related to all processing agreements, exchanges, buy/sell agreements or any other similar agreements entered into by the firm.

For purposes of this letter:

> The terms "documents" and "documentation" includes but is not limited to, all writings, correspondence, memoranda, logs, invoices, reports, cancelled checks, deposit slips, contracts, telegrams wires, account books, ledgers, schedules, tabulations, notes, work-papers, inventory records, audio recordings, print-outs, tapes, computer memory and/or program decises, microfilm and/or microfiche, and all other kinds of records.

The information and documentation requested should be organized in a manner so that the documentation pertaining to each month is separate and distinct from documentation relating to other months. The designated auditor will contact you within a few days to arrange a starting date and time for the audit. We also request that you designate a liaison official along with workspace for the auditor(s)

Your DOE contact for this audit will be Les Elis and this person may be reached on (202) 653-3548. However, if at any time you feel it necessary, you may contact me on (202) 653-3549.

Sincerely,

Stanley S. Mills, Program Manager
  for Entitlements
Office of Enforcement
Economic Regulatory Administration

RG-456:ELIS/gnsmith/2000 M/653-3549:1/28/91

Senator EAGLETON. In addition to your 3-percent ownership or thereabouts of Canal and Anchor, you are a member of the board of directors of Anchor?

Mr. WRIGHT. No, sir, I am not. I am a stockholder.

Senator EAGLETON. You are just a stockholder?

Mr. WRIGHT. That's right.

Senator EAGLETON. But you filled out a form here. What form is this?

Mr. WRIGHT. This was the form, Senator, that was sent out——

Senator EAGLETON. Oh, you filled out a form, as many individuals do, when being confirmed, et cetera, and you said in the form you were a director. But you are not?

Mr. WRIGHT. No, sir. That was a mistake.

Senator EAGLETON. That was a mistake, sort of like the copyright lady that didn't write the book, didn't like the book, didn't like those words in the book, but got paid to work on the book, just a little old mistake.

Mr. WRIGHT. Mr. Eagleton, I am sure you have to fill out all the financial disclosure forms and everything else. Those happen.

Senator EAGLETON. I have never stated on any form that I was a director of any company unless I was a director of it. Anyway, it appears on page 3 of the hearing record on the nomination of Mr. Wright to be Deputy Budget Director.

I am going to yield at this time, but I tell you what will come next as far as I'm concerned. I personally talked to every other name unmentioned by Senator Roth and Senator Stevens in the Wall Street Journal article. They always like to talk about Gordon Harvey, the last paragraph; they want to spend all their time talking about Gordon Harvey, the guy the oil industry went out to nail. After Senator Gore and Senator Rudman finish their interrogation, I am going to go into some of these other witnesses that I hope we will have here. They put quite a spin on the Anchor ball.

I will yield at this time.

Chairman ROTH. I would just like the record to show for purposes of clarity that this committee has not had the opportunity to investigate this matter, at least the majority side. We have not talked to Mr. Harvey; we have not talked to a number of these people.

This first came to our attention last Thursday, and to be helpful and cooperative with the minority, we agreed to the early meeting. Frankly, as far as I was concerned, when you are dealing with the reputation of an individual, it is important that one proceed carefully and with caution, and I would have far preferred to have had our staff have the opportunity to discuss and investigate this matter in great detail. But I did agree to avoid the questions last Thursday because I felt it was unfair and took the witness who was before us on another matter by surprise and I agreed to proceed today.

As I said, at the conclusion of the hearings today, my staff will proceed with a more detailed investigation and decide what is appropriate at that time.

But it is a very unfair inference to suggest that we have had the opportunity over the weekend following the practically all-night session to do more in that time. In fact, I want to compliment the staff for the work that they have accomplished, and I am sure the

Ranking Member agrees with me; we want to try to be fair to everyone as we proceed.

I suggest that we have a 5-minute recess.

[Short recess.]

Chairman Roth. The committee will reconvene.

Senator Rudman?

Senator Rudman. Thank you, Mr. Chairman, before I start examining Mr. Wright, I only have a few questions for him, because I think most of the questions I have will be for other witnesses. I think Senator Eagleton and yourself have probably got Mr. Wright on the record with all of the questions he can be asked. I guess there is essentially one thing that everybody can agree on on both sides of this table, and that is that Mr. Wright had three conversations with Mr. Hanzlik.

Mr. Chairman, what concerns me is that this committee do an adequate job of investigating allegations that certainly have been made both in the press and, to some extent, here. There are only two issues involved, Mr. Chairman. I want to say this publicly here in the record, because as vice chairman of the Permanent Subcommittee on Investigations, I work with you a great deal in establishing investigator techniques. There are only two issues involved. Issue No. 1 is: Was there a conspiracy by a number of people to, in some way, ensure a special form of justice for the Anchor Canal Companies? That is issue No. 1.

Let me talk about that issue just for a moment. In order to get at that issue, there are just too many people around to be able to hide whether or not that happened or not, and those people are obviously Mr. Hanzlik, and a fellow named Robert Wehrle-Einhorn, who says in the press that the reason given for the delay was that this was delicate or sensitive because of pressure on the Department's budget. "My understanding was that this pressure was coming from a high-level official in Energy or the White House."

Senator Eagleton. Mr. Rudman, if the Senator will yield just briefly, we also have additional witnesses that we will describe by name and what they say about the same pressures.

Senator Rudman. And then there is a question whether he was told that the owner of the firm was either in the White House or OMB. There was another Energy Department aide. Those witnesses, Mr. Chairman, have to come before this committee, be given the oath and asked very direct questions, and they are going to have to give us direct answers. They are going to be under oath, and either they are going to connect this allegation to Mr. Wright or they are not. That is issue No. 1.

There are only three possible outcomes. One, Mr. Wright has perjured himself here today. No. 2, that Mr. Wright has told the truth here today, but for some reason unknown to Mr. Wright, Mr. Hanzlik has done something with this investigation that was improper. Or No. 3, what happened in this particular case is probably not any different than has happened in a lot of these cases, which I have personal knowledge of which have dragged on for 4, 5, and 6 years for reasons that I don't understand under the Carter administration and the Ford administration and this administration.

The second issue, Mr. Chairman, has to do with Mr. Harvey.

I want to direct some questions to you about Mr. Harvey. Could you tell us, because Mr. Harvey is going to testify. I have requested a copy of his charges in writing against you, which I understand the committee will now get, and he is either going to have to validate those charges under oath or deny them. If he validates them, he is going to have to prove them. Mr. Wright, do you know what he has charged you with? What was the charge against him, and when did you learn that?

Mr. WRIGHT. I first learned that, Mr. Rudman, when I got a call from Special Counsel O'Connor that said that he had already completed an investigation or was nearing completion of an investigation; that he had had several discussions with Mr. Richards, who was Mr. Harvey's superior, and that he was trying to resolve the situation.

Senator RUDMAN. What were the charges?

Mr. WRIGHT. I believe what they were, the charges were that—and this won't be exactly right, but it will be in the area—that he had taken an adverse action, I believe, against a whistle blower, and had prohibited that person from either entering some kind of a job series or promotion or move or something like that.

Senator RUDMAN. Mr. Harvey had done something improper to someone that worked for him?

Mr. WRIGHT. Well, I don't know——

Senator RUDMAN. Or worked with him?

Mr. WRIGHT. Yes.

Senator RUDMAN. Mr. Chairman, you see, this whole conspiracy theory is going to fall flat or it is going to be well proven very quickly. Because there are only three people that will have to come and perjure themselves if Mr. Wright has essentially told Mr. Eagleton an untruth. No. 1, you have got Mr O'Connor, whom I know and I doubt is going to perjure himself. The question is, who initiated Mr. Wright's involvement in this case?

Are you telling us, Mr. Wright, that Mr. O'Connor first involved you in this case?

Mr. WRIGHT. Yes, sir, that is right. As a matter of fact, I have got a note here, if you would like to hear what the charges were. "O'Connor has charged Harvey with committing prohibitive personnel practices by retaliating against Mr. Charles Gorsey for making protected disclosures" in other words, whistle blowing. "In filing the complaints, O'Connor charged that Mr. Harvey's treatment of Mr. Gorsey seemed to have been unnecessarily harsh and abrupt. It seems like the talents of an apparently well qualified civil servant were greatly underutilized for extended time periods as a result of Harvey's actions."

Senator RUDMAN. Who initiated that complaint? The Merit Systems Protection Board doesn't initiate complaints. Who initiated it?

Mr. WRIGHT. I will tell you what I think probably happened, and that is Mr. Gorsey probably complained to the Merit Systems Protection Board.

Senator RUDMAN. Because of Mr. Harvey's actions against him?

Mr. WRIGHT. Yes, sir.

Senator RUDMAN. What you testified in response to questions by both Senator Roth and I believe Senator Eagleton was that that was your first knowledge of Mr. Harvey in any sense; you really didn't know about a Mr. Harvey before then, is that correct?

Mr. WRIGHT. I had no idea who Mr. Harvey was. That does not mean, Mr. Rudman, that I did not meet him somewhere or say hello to him.

Senator RUDMAN. There are a lot of people I probably would testify I have not met them and I have, they are probably in the thousands.

Let me ask you just one more: If someone mentioned to you the name Harvey over at Energy prior to that phone call, you could not have associated who that person was?

Mr. WRIGHT. When Mr. O'Connor mentioned that name to me, I couldn't associate who it was.

Senator RUDMAN. That is what I am talking about. You are telling us under oath, at this point in time, you knew nothing about who Mr. Harvey was and what he did?

Mr. WRIGHT. That is right.

Senator RUDMAN. Certainly, it would follow, then, and I will ask you the question, you again repeat what you said to Senator Roth here and Eagleton, you did not know he was involved in an action against a company which your family partially owns.

Mr. WRIGHT. Absolutely not at all. I heard that about a month ago. I was stunned.

Senator RUDMAN. Was it normal for you in your position as chairman of the Board that had oversight over this whole I.G. area to get calls of the nature that you got from Mr. O'Connor?

Mr. WRIGHT. A case like that had not come up before, really. We don't have too many adverse actions against a member of the PCIE community. But it is not unusual for Mr. O'Connor to be calling me and try to get resolutions for certain cases, not even cases, just certain issues.

Senator RUDMAN. The next question—go ahead.

Mr. WRIGHT. Pardon me—or any other member of the PCIE. I believe Senator Gore mentioned the fact that we had a situation over at FEMA last year. That is typical for me to get involved and put together a special investigative team to go and take a look at any potential wrongdoing. I have done it also in several other departments before.

Senator RUDMAN. So it is not unusual for you to get involved with them in these kinds of things.

Mr. WRIGHT. That is what the chairman does.

Senator RUDMAN. I understand that.

You also, as a result of the call from Mr. O'Connor, spoke to two other people. One you mentioned was the I.G. himself, and his name?

Mr. WRIGHT. Mr. Richards.

Senator RUDMAN. What did you say to Mr. Richards?

Mr. WRIGHT. I told him that I had received a call from Mr. O'Connor, that Mr. O'Connor was going to be bringing charges against Mr. Harvey, that he felt very strongly about it, that he would win those charges, that he was willing to take a simple letter of reprimand and———

Senator RUDMAN. That who was willing to take a simple———

Mr. Wright. Special Counsel O'Connor. A simple letter of reprimand, and what's the story here. Mr. Richards went on ahead and told me.

I then went and tried to find another source of resolution through the Assistant Secretary for Administration.

Senator Rudman. Whose name is——

Mr. Wright. Martha Hesse.

Senator Rudman. And you had the same kind of conversation with her?

Mr. Wright. That is right, because if her Office of Personnel made the mistake, it was unfair to bring any charges against Mr. Harvey.

Senator Rudman. I take it the I.G. at Energy was not willing to cooperate.

Mr. Wright. Then I got back to the I.G. at Energy and said that they said that the Office of Personnel did not make any mistakes, they cannot find anybody who would be responsible for it, so I said, what do I tell O'Connor?

Senator Rudman. And he said?

Mr. Wright. And he said that, I don't know if he said "I will talk to Mr. Harvey."

Senator Rudman. Roughly?

Mr. Wright. He said, no, we are going to go forward with the case. We want a final resolution. And that was it. I had nothing else to do with it.

Senator Rudman. Mr. Chairman, I am very anxious to have both the person from personnel and the I.G., because if they testify precisely as to those facts, and I'm sure there is not a member of this panel would disagree with the Harvey case unless there are other witnesses I don't know about, would be unfair. Let me ask you, Mr. Wright.

You seem a little astonished and a little bit hurt to use your word, that Mr. Harvey would try to pin this on you when you really tried to help him by trying to settle it after being called by Mr. O'Connor to do it. Do you have a theory as to why he might want to do that? That is kind of off the wall, isn't it, as we might say?

Mr. Wright. No, sir, I think it is. I am totally perplexed about it.

Senator Rudman. You don't have a theory, because I have a theory, Mr. Wright, but I want to hear your theory, if you want one.

Senator Eagleton. I have a theory, too, and Anchor-Canal, $39 million buckaroos. I got a theory.

Senator Rudman. Senator Eagleton, I did not interrupt on your time, and I would appreciate it if you would not interrupt on my time.

Chairman Roth. Senator Rudman.

Senator Rudman. The evidence in this will be very clear, Mr. Chairman, either four people will come here and perjure themselves or not, that has got nothing to do with $39 million.

Mr. Wright, do you have a theory as to why Mr. Harvey might want to tag you with this?

Mr. Wright. No, sir, I really don't, and I wouldn't want to speculate. This is the first time that I am aware of that any member of the PCIE has attacked me for doing anything that was inappropriate toward them personally, and I was extrememly surprised by it. It was only until I found out a month ago that he had told, supposedly, he had told a reporter that he had tied this in, and he thought I was taking some kind of adverse action against him, and I told him.

Senator RUDMAN. He thought.

Mr. WRIGHT. He thought, and I told the reporter it was exactly the reverse. I can't imagine.

Senator RUDMAN. But he further reduced it to writing, did he not, Mr. Wright?

Mr. WRIGHT. Yes, sir, he did.

Senator RUDMAN. And he has put in an official complaint which was investigated and found to be without base.

Mr. WRIGHT. That is right.

Senator RUDMAN. That you were, in fact, responsible for it. So he did more than talk to a reporter, did he not?

Mr. WRIGHT. Yes, he did. He did more than talk to a reporter, you are absolutely right.

Senator RUDMAN. I don't disagree with Senator Gore about what Mr. Harvey's background might be. I have no doubt to question the statement of my friend from Tennessee. He is probably everything that Senator Gore probably says he is, but this is a perplexing case, and when he is here under oath, it is going to be very interesting to see what he can say to substantiate some very serious charges.

Let me ask you just one last question, Mr. Wright.

Senator Roth asked it in a somewhat different way, but I want to ask it for emphasis and in a slightly different way. Prior to the first conversation you had with Mr. Hanzlik, the initial conversation, had you discussed the matter of Anchor-Canal's problems with anyone else within the Government?

Mr. WRIGHT. Not that I am aware of, no, Senator. You would have to include my executive assistant.

Senator RUDMAN. I'm not including her. I am including any other OMB employees, Energy Department employees, White House employees or Members of Congress.

Mr. WRIGHT. No, sir.

Senator RUDMAN. Have you, subsequent to that, other than in discussing this hearing, in the last week, last few days, discussed that matter with any of the aforesaid parties at all?

Mr. WRIGHT. Not only to react to what people have come up and talked to me about the Wall Street Journal.

Senator RUDMAN. I am talking about before this story really broke.

Mr. WRIGHT. No, sir.

Senator RUDMAN. I am talking about during the time this entire matter was still under investigation.

Mr. WRIGHT. No, sir. I have been very careful.

Senator RUDMAN. Mr. Chairman, I think it is very important that with all proper speed but carefully, we get the witnesses that I have mentioned, those that Senator Eagleton says that we have and get them before the committee and let's put them under oath. I am particularly interested in talking to these people to see whether the allegations are based on suspicion or based on fact, and there is one great difference.

Thank you, Mr. Chairman.

Chairman ROTH. Senator Gore.

Thank you, Senator Rudman.

Senator GORE. Thank you, Mr. Chairman.

Before I get into the questions that I want to ask about this, I just want to say that I'm a little puzzled by all of the focus on Mr. Harvey's complaint against you, Mr. Wright, on a matter which I take it is completely unrelated to the subject of this hearing. The complaint that he filed against you related to Anchor-Canal or your call to Mr. Hanzlik.

Mr. WRIGHT. No, sir. I don't think it is at all.

Senator GORE. Not at all. So when Senator Rudman says this whole case may fall, he is referring to the other case, the case that Mr. Harvey tried to make against you in a matter that is completely and totally unrelated to the telephone call that you made to Mr. Hanzlik, correct?

Mr. WRIGHT. Well, unfortunately, Senator, it seems to have gotten intertwined, you know, not only as a result of the courses of the hearing, but as a result of how the original article was written and everything else. It shouldn't have, but it seems to have gotten there.

Senator GORE. You agree that it is unrelated?

Mr. WRIGHT. I thought it was unrelated at one time, but it seems to be getting more related every day.

Senator GORE. I don't think so. I think that there is an implication left that the charges against you as a result of your making this telephone call should relate from bitterness on the part of Harvey, but Mr. Harvey didn't make a call to Mr. Hanzlik, you made the call to Mr. Hanzlik. Mr. Harvey didn't invent your intervention in this case. He didn't make this up out of thin air. The facts speak for themselves, and whatever went on between you and Mr. Harvey at some point in the past on a totally unrelated matter, in my personal opinion, as one member of the subcommittee, has nothing to do with the matter that we are investigating here.

The facts of this matter are clear: You have a quarter of a million dollars worth of stock in an oil company, and the oil company was about to be cited in a case that might require it to repay to the Government $39 million. And you picked up the telephone and called the chief enforcement officer here and said, wait a minute, here. What is going on? I'm told by the President of this family company, who is my father, that this process is kind of peculiar. Can you look into it for me?

I am paraphrasing it.

Mr. WRIGHT. Yes, Senator, you are.

Senator GORE. I am paraphrasing in I hope what is a fair way. Tell me what is unfair about that paraphrase.

Mr. WRIGHT. What is unfair about that is first of all, I did not go wait a minute in such a way that where I had any knowledge at all what the status of the case was. Second, I see absolutely nothing wrong with calling up and simply asking for a meeting if you make sure, if you make very, very sure that it is simply setting up a meeting, it is a family company and there are to be no favors given one way or the other.

Senator Gore. Did you tell him that you have got a quarter of a million dollars worth of personal stock in this company?

Mr. Wright. No, sir, I didn't tell them what the entire stock was. I thought they would have that information.

Senator Gore. You are calling the enforcement action. Was it relevant that you had a quarter of a million dollars worth of stock in the company you are calling him about?

Mr. Wright. Senator, I told him it was a family company. As a matter of fact, I probably exaggerated to an extent where he thought it was just my family company, it is not.

Senator Gore. You didn't exaggerate to the extent that you told him you had a quarter of a million worth of the stock?

Mr. Wright. I told him it was a family company. It was a very short conversation.

I did not even tell him that a majority of the company is owned by another family. I just said it was a family company.

Senator Gore. You testified that in your opinion, there was no appearance of a conflict of interest here. The Executive Order 11222 prescribing standards of ethical conduct for Government officers and employees, which you are principally charged with enforcing, am I right about that?

Mr. Wright. No, sir.

Senator Gore. You are a council, you are part of the council that overlooks this sort of thing, right?

Mr. Wright. No, sir, I believe that is the Office of Government Ethics and the President's Council has nothing to do with it.

Senator Gore. All right. I stand corrected. The Executive Order 11222 prescribing standards of ethical conduct says, it is the intent of this section that employees avoid any action whether or not specifically prohibited by subsection A, which might result in creating the appearance of using public office for private gain, giving preferential treatment to any organization or person, et cetera.

You were asked whether you felt that your actions gave the appearance of giving preferential treatment or leading to private gain and your response was you don't think it created the appearance.

Mr. Wright. I would like to answer both of those questions on both of those items. First of all, Senator, using public office for private gain, I had no idea the amount that was involved, and second, I had no idea whether an early resolution would be to the favor of the company or to the disfavor of the company. Second, giving preferential treatment to any organization or person, simply setting up a meeting and asking for nothing to result of it at all and being very careful that that is understood with a witness is not giving preferential treatment.

Senator Gore. Is it giving the appearance of preferential treatment?

Mr. Wright. I do not believe so at all, as long as you are very careful in exactly what you say. It's not the call. It's what's made in the call or what's said in the call.

Senator Gore. Were you misquoted in the Wall Street Journal article?

Mr. **Wright**. I think some of it is, I wouldn't call it misquote. I would say some if it probably was what I was feeling or what I was intending or what my thoughts were as opposed to what was happening.

Senator **Gore**. Let me read your quote to the Wall Street Journal. "I blew it from a P.R. standpoint. If I had it to do over again, I wouldn't do it because of the way it looks."

Is that inconsistent with saying it did not create an appearance that you were given special preferential treatment?

Mr. **Wright**. Senator, I was talking to that reporter, a very good reporter, who knows his job well, does as good a job as the good Senator in sometimes leading the witness.

Senator **Gore**. Excuse me. What?

Mr. **Wright**. He does a very good job on leading the witness.

Senator **Gore**. I'm not trying to lead.

Mr. **Wright**. I am saying the reporter, sir. And at that time that was not a misquote by no means. But I rejected that statement several times to the reporter and asked him, please don't use that. That is not the way I felt.

Senator **Gore**. Yes, well, it certainly appears to me to have created an appearance of a conflict of interest. I think on its face, it does that. The issue, as far as I'm concerned, is not whether it created the appearance of preferential treatment. I think it obviously did. I think the question is whether it was worse than that, and the answer depends upon how naive you were in thinking that it didn't have an impact on the chief enforcement officer of the Department of Energy when you called him up and singled out this case for special attention. You haven't called him about any other case, have you?

Mr. **Wright**. No, sir.

Senator, the chief, as you call it, the Administrator, Hanzlik, I consider to be a professional, I consider it when he says that he encourages companies to come in and talk to him in Washington and that there will be no favoritism at all in any way I believe him.

Senator **Gore**. Well, I don't. I have had the experience with Mr. Hanzlik for a number of years now, and I believe that his principal objective in taking over the enforcement function was to phase it out as quickly as possible. I think that he wanted to do it in a sophisticated way by getting the calculation of overcharges down to the level where it wouldn't look like they were costing the taxpayers quite as much money, but then finish the job as quickly as possible while collecting as little money as possible from the oil companies.

So I think that part of the problem here is that he was sort of predisposed to do for you what he has done for hundreds of oil companies. I mean, in his daily routine, it's not all that unusual to get calls from people in the oil industry saying "What about this? Isn't there anything you can do?"

I think the record of the enforcement program will bear that out in very, very great detail.

Mr. **Wright**. Senator, that may be true. I do not know the record of that enforcement agency. I would not question your knowledge of it.

But to tie in my phone call to simply ask for a meeting and make it very clear that there is to be no special treatment with anything that occurred within the Department of Energy afterward that I had no knowledge of and no control or no influence is horribly unfair.

Senator GORE. They recalculated the amount owed the Government by your family company 6 to 8 months after your telephone call and after the case had been transferred away from the Kansas City office. They transferred it to the Dallas office. The history of this enforcement program is very interesting and one of the things that has occurred is a kind of a warfare between the employees who wanted to do their job and those who wanted to fix the cases.

When I use the word fix, I think what happened here is there was at bottom a philosophical objection to the whole enforcement program. There was a strong feeling on the part of the Reagan administration when he came into office that oil price controls were a terrible mistake. A lot of others agreed with them, but one of their objectives in coming into office was to eliminate the oil price regulation program altogether.

This was a legitimate goal on their part. This was one of their proposals in the election. They wanted to do that, but then they went one step further and said, since the regulations were, in our opinion, a mistake, there is no point in prosecuting violations of the law while it was in effect. Well, a lot of these officials disagreed, as the Congress disagreed. Those in the Kansas City office were among those who tried to enforce the law, and they are the ones that were making the case against Anchor and against Canal.

One of the things Mr. Hanzlik did after your telephone call to him, was to transfer the case from Kansas City to Dallas, and lo and behold, the Dallas office recalculated the facts and came up with a conclusion that Anchor and Canal owed zero. After the inspector general got involved in it 2 years later, they recalculated it, they got scared that this fix was going to become public, and so they hurriedly refiled an allegation with several million dollars alleged as being owed.

Mr. WRIGHT. Senator, I object to the word fix and Mr. Hanzlik and the Wall Street Journal article said that it fell between the cracks and it was bungled. I strongly object to the word fix. Also, the only other thing I would say is——

Senator GORE. Certainly bungled.

Mr. WRIGHT. Say whatever you want to, but I think that is a very bad word, and what you are doing is you are assuming that that occurred, and I am sure there are some very good people within that agency. You may not like this, but what you are doing is you are impugning the integrity of a great number of people within that agency.

Senator GORE. I think they disagreed with the people, they didn't think it was worth anything, so they did what they could to eliminate it.

Mr. WRIGHT. The second thing, Senator, and this is what Senator Eagleton handed out this morning or this afternoon, when you say they had a transfer from the Kansas City office to the Dallas office, I was just noticing. It was transferred on October 22, 1982. On the next page, it says, 3 days before that, the Kansas City offices were closed, so I would hope they would transfer it to someplace that was opened up. I am saying what is put on the pages that Senator Eagleton handed out.

Senator EAGLETON. For the record, the office was closed in 1984. That is a typo in the record.

Senator GORE. I thought that was right.

Senator EAGLETON. It was not closed by reason. It was closed in 1984.

Senator GORE. It wasn't transferred because the office was closed. It was transferred because the officials in the Kansas City office were being too diligent in enforcing the law, and they wanted a set of officials that were more pliable, more amenable to fixing the case. Whether you intended, whether you intended your telephone call to result in a fix or not is an open question.

I grant you that. But what they did after your telephone call, I think is patently obvious, they fixed the case. They transferred it and recalculated the amount owed down to zero, and they let it languish and languish, and they felt guilty about it, because later on when the inspector general called them up, they said, oh, gosh, we have got to do something here, and a few days after the inspector general started looking at it. Then they recalculated it again, and said, no you don't owe zero, you owe lots of money, and we are going to, for the record, proceed on this vigorously. Doesn't it look like that to you, Mr. Wright?

Mr. WRIGHT. Mr. Gore, I have no idea what happened on that case. The only thing I know is what I read in the Wall Street Journal. I am dealing with a lack of information here. I have not been able to talk to Mr. Hanzlik, I have not been able to talk to the inspector general about this. I have absolutely no facts, and I am being asked by you "doesn't this look like this happened?" That would be foolish to respond, because I don't know what happened, but to tie in any actions that occurred in that Department to my phone call that I particularly—when I had no knowledge or no impact or no authority or no influence on those actions, is unfair.

Senator GORE. OMB was in the midst of a dispute with the Department of Energy at this time about how much money it was going to get in its budget, isn't that correct?

Mr. WRIGHT. Senator, we are in dispute with every single agency in the entire Federal Government.

Senator GORE. Right. That is why it is safe for me to say that, because you are constantly in a dispute with the Department of Energy and others about how much money they are going to get. So in the enforcement office was having a sharper dispute with OMB than any other part of DOE, because OMB was trying to strangle the enforcement office. That's colorful language, but it is essentially true, isn't it?

Mr. WRIGHT. I would have no idea. If you will notice, on the first page of my statement, I said that I totally recused myself from all budget items within the energy area. The Associate Director that handled that, as well as our general counsel as well as everybody else made darn sure that I did not get involved in any of those issues.

Senator GORE. Did you tell Mr. Hanzlik that when you called him up?

Mr. WRIGHT. I do not know.

Senator GORE. Chances are you didn't.

Mr. WRIGHT. Senator, that was 2½ years ago. I really do not know.

Senator GORE. OK. Here is the head of the DOE enforcement office who was in the midst of a bitter dispute with OMB about how much money he is going to get for his Department, and the Deputy Director of OMB calls up and says, hey, I have a family business. Can you look into this for me? What the hell is he supposed to think?

Mr. WRIGHT. No, sir; I did not say can you look into this for me.

Senator GORE. You did say can you look into this.

Mr. WRIGHT. No, I did not.

Senator GORE. You said words to that effect, didn't you?

Mr. WRIGHT. I very simply asked him, would he go ahead and mind meeting with company members, members of the company that was a family company and that I wanted no favors or no special treatment. No, I did not ask him to look into it. I asked him would he go and mind talking to people. He said they liked to bring people into Washington to discuss these issues, there was no problem.

Senator GORE. It seemed to be significant to you that the telephone call didn't take very long. You and Mr. Hanzlik have both been quoted as saying, well, it was only a short telephone call. It didn't last very long. You testified here earlier today that it was a very short call. What difference does that make?

Mr. WRIGHT. I don't think it makes any difference at all, sir. It is entirely what is said.

Senator GORE. I don't either. If somebody is charged with murder, it doesn't matter if they only fired one bullet. It doesn't take very long in a case of conflict of interest to violate the law. A short telephone call will suffice.

Mr. WRIGHT. Again, Senator, it depends on what you said during that call.

Senator EAGLETON. Senator Gore, I note for the record, one of the most famous calls in history, the famous Deep 6 call where Dean and Ehrlichman spoke and Dean was told to shread the documents and Deep 6 the briefcase. Fifteen seconds, the famous Dean-Ehrlichman Deep-6 call: "When you cross over the bridge on your way home, just toss the briefcase into the river." Fifteen seconds, one of the most famous, infamous short calls in history.

You can say an awful lot and infer an awful lot in a short time.

Senator GORE. Mr. Wright, you headed the transition team for the Department of Energy, is that right?

Mr. WRIGHT. No, sir.

Senator GORE. Excuse me. You headed the transition team to dismantle the Department of Energy.

Mr. WRIGHT. No, sir; that is what you call it and we call it the reorganization. It would not have been dismantled. It would have been combined with the Department of Commerce.

Senator GORE. I thought President Reagan pledged during his campaign that he would dismantle the Department of Energy, didn't he?

Mr. **Wright**. I believe he said and again, I am under oath right now, so I don't know exactly what the words were.

Senator **Gore**. I won't hold you to your recollection, but I will hold myself to mine, and he said, in Oklahoma and Texas and a lot of other places on the campaign trail, we ought to dismantle the Department of Energy. You remember that, don't you?

Mr. **Wright**. And the Department of Education and a few of the other departments that were formed for special interests.

Senator **Gore**. Let me ask you the question again. Don't you remember him pledging to dismantle the Department of Energy?

Mr. **Wright**. Yes, sir, I do.

Senator **Gore**. Thank you.

Mr. **Wright**. Wait, I am not going to let that just go right there. But it was very clear when we came up that we were talking about combining the two departments and to my knowledge, there was going to be none of the energy regulatory administration or any other regulatory agency that was going to be diminished as a result of that reorganization.

Senator **Gore**. Here is the Associated Press wire quoting Platts Oilgram News for February 16, 1982, which, is the time you were appointed to head this transition. "Meanwhile the Office of Management and Budget has signed off on the final draft of the dismantling legislation and the waiting for interagency comments." The whole story is about dismantling the Department of Energy. "Congress is taking a wait-and-see attitude toward the Reagan administration's proposal to dismantle the Department of Energy congressional sources said." There were a lot of arguments at the time. It was in the press. Come on. The effort was labeled, we are going to dismantle the Department of Energy and you were named as the head of the task force to manage that transition.

Mr. **Wright**. Senator, I am also sure you will realize that at that time, in February 1982, I was not in the Office of Management and Budget, I was in the Department of Commerce.

Senator **Gore**. Yes.

Mr. **Wright**. Second, I am also sure you realize that the person primarily responsible for that was my predecessor, Mr. Ed Harper, and I was handling the staff efforts.

Senator **Gore**. Did you agree that the Department of Energy should be dismantled?

Mr. **Wright**. I agree that it should be exactly like Secretary Baldrige and I said when we came up here. It should be reorganized and combined with the Department of Commerce. We must have repeated that about 9 months.

Senator **Gore**. If you were head of the transition team and studied the Department, you must have had an indepth knowledge of energy and what its programs were and what could be safely eliminated and what needed to be integrated into other functions. I mean, you looked at this pretty closely, didn't you?

Mr. **Wright**. No, sir. We got approximately 1-hour briefings from every single agency head. The most complicated one was in the nuclear weapons area, and so if you are saying that if we really understood those operations in the Department of Commerce as a result of, let's say, 1-hour briefings, no, sir, we really did not understand them as well as I would have liked to have.

Again, it was not a complicated issue. It was simply combining boxes and reducing overhead to the Secretary's level.

Senator GORE. Did you have an opinion about the oil overcharge issue? Did you think that it was a mistake to collect these alleged overcharges?

Mr. WRIGHT. Senator, I don't know enough about the overcharges as to where they come from. Even when the reporter first came and mentioned, I thought that they were at the retail level.

Senator GORE. I am talking about the overall program now where you were head of the transition team, you were charged with a responsibility of dismantling the Department of Energy or, as you put it, integrating it into the Department of Commerce. Did you have an opinion about the overcharge?

Mr. WRIGHT. No, sir.

Senator GORE. OK.

Mr. Chairman, I just have one other statement. I don't have any other questions at this time. I will look forward to Senator Eagleton's. I think the facts of this case are very clear. It is difficult to determine Mr. Wright's intent when he made the call. But it is impossible to misunderstand what happened because of the call the charges were modified, the amounts owed were reduced to zero, and the effect of the sequence of events was that the case was fixed. Whether Mr. Wright personally intended that to occur or not.

It is equally obvious to this member of the subcommittee that an appearance of the conflict of interest did take place, if not actual conflict. And that is just my own personal conclusion.

I appreciate your courtesy and length of time you have given me.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. I just wanted 1 minute of time to simply say in response to my friend from Tennessee what is in my mind of the Harvey case. Obviously, I think it is important for the record of this hearing, the central issue is what Mr. Wright did and we will have ample evidence to find out what the result of that was. Whether the result was what he intended or whether it was not what he intended. But the Harvey case is a very interesting case, because there was a very strong inuendo that Mr. Wright is not telling us the truth. That is the inuendo. Anybody who spent 3 minutes in a court room can feel it and taste it and smell it.

Senator GORE. Would the gentleman yield on that point?

Senator RUDMAN. I want to finish. I will be happy to yield, and I am sure the chairman will allow you to respond. Part of the inuendo supposes that Mr. Wright knew what was going on with Anchor and knew all the troubles they had, and he had tried to fix it. Obviously, if we can prove before this committee with strong evidence that Mr. Wright had a hand in somehow disciplining Mr. Harvey, if we can prove that, then I think Mr. Wright is in a lot of trouble. There is a very strong tie here, because that would then establish the pattern that any criminal lawyer worth a quarter knows is important to establish conspiracy.

The second thing that I want to say is that in terms of other witnesses we get here, Mr. Chairman, it is very important, and Senator Gore makes an excellent point: We had better get Mr. Hanzlik and others in here and find out how all of those cases were handled during the period 1981 to 1984.

If, in fact, this was handled very differently, then I think that is one thing. If, in fact, because of what Senator Gore has pointed out, the attitude of this administration, which I happen to disagree with, on enforcement of these actions allowed many of these cases to be delayed and stalled and dropped through the cracks and what-not and what happened here with Anchor-Canal was just another case that I happen to disagree with, if it stands up by itself, then the results were something I'm not sure whether Mr. Wright intended them or not.

I think it is important, Mr. Chairman, that before we get done here, this man have a chance to have his name either cleared or smeared, and you only can do that with witnesses under oath who tell us what happened. So far, we haven't heard that today.

What happened in Mr. Harvey's case is very important to me, because if Mr. Wright's hand can be found anywhere in laying a hand on Mr. Harvey, then he had a lot more knowledge about Anchor than he is telling us today, and we'll sure find that out.

Senator GORE. If I could respond briefly, just 30 seconds on this, I think it is perfectly plausible to suppose that Mr. Wright is telling the truth and still have a damning case against him. The issue is as I said earlier, how naive was he in gauging the impact of his call on the Department of Energy? I mean, it could be just as simple as that. But just what he has stipulated is extremely serious. In the English system, someone in Mr. Wright's position would resign immediately because of the appearance of conflict and part of the tragedy would be, as I said earlier, he has got basically a very good reputation and has worked hard.

I wouldn't relish seeing you go, Mr. Wright, because I know some of the other things that you have done, but there is a very serious lapse in judgment that I think wasn't ethical, and I believe that because of the appearance it created, if not worse, depending upon not your truthfulness, but on what was in your mind and what you intended to be the impact of that call. I appreciate the extra time, Mr. Chairman.

Mr. WRIGHT. Senator, again, the impact of that call was simply to set up a meeting and to be very careful to make sure that it was understood that that was the total impact of that call. I think there was one thing that has not been mentioned so far, and that is that in that same article we are all quoting, Mr. Hanzlik did say that my call did not make one scintilla of difference the way that case went down, good or bad.

Senator GORE. You don't believe that, do you?

Mr. WRIGHT. Yes, sir, I do believe that my call did not make any bit of difference.

Senator GORE. I imagine that you are the only person who believes that.

Chairman ROTH. Senator Eagleton?

Senator EAGLETON. Yes. Mr. Wright, you do believe that your call, though, at the very least, helped set up the meeting?

Mr. WRIGHT. Yes, sir.

Senator Eagleton. You concede that. Your call on September 23 and the meeting is October 23, is it, 22? So your call at least accomplished that much, right, this meeting with Hanzlik?

Mr. Wright. Senator, I believe that is correct. I believe they probably could have set up a meeting with Mr. Hanzlik anyway, and they should have.

Senator Eagleton. Oh, no They had been complaining, and you complained to Hanzlik. My God, nobody is paying attention to those fellows after all the stuff that isn't in the last paragraph of the Journal article. Everyone on the Republican side wants to try Gordon Harvey, and everybody on the Democratic side wants to find out what happened on the fix on the Anchor-Canal case. They want to try Harvey. They will bring Harvey up here, and I will have a little to say about Harvey myself, but they don't want to talk about Anchor-Canal. You have got the two aides, two people from Anchor-Canal, who went in to see Hanzlik?

Mr. Wright. That is my understanding.

Senator Eagleton. Who were these two fellows?

Mr. Wright. I understand that they were Mr. Coty DuPre.

Senator Eagleton. Spell that, will you?

Mr. Wright. Well, it's K-o-t-y or K-o-d-t, I'm not sure of the first name.

Senator Eagleton. OK.

Mr. Wright. C-o-t-y or K-o-d-t. The last name is capital D-u, capital P-r-e-e.[1]

Senator Eagleton. D-u-P-r-e-t.

Mr. Wright. E-e.

Senator Eagleton. DuPre. Right. Who was the other fellow?

Mr. Wright. I understand he was a lawyer called Mr. Dunagan.

Senator Eagleton. You don't know anything about this company and all their transactions. How do you know who went in to see Mr. Hanzlik?

Mr. Wright. I asked my father when I called him about 2 months ago.

Senator Eagleton. Oh, you did discuss this part with dad.

Mr. Wright. No, I asked did the meeting occur. "Did you go?" He said, "No, did you go dad? Who went dad?"

That's right.

Senator Eagleton. Do you know Mr. Coty DuPre?

Mr. Wright. And was the case settled.

Senator Eagleton. And was the case settled? You never asked him the amount. I asked you that before. I won't be repetitious. Do you know Mr. Coty DuPre?

Mr. Wright. Yes, sir.

Senator Eagleton. Do you know him well?

Mr. Wright. No, sir.

Senator Eagleton. He works for the company?

Mr. Wright. He works for the company.

Senator Eagleton. For how many years?

Mr. Wright. I have no idea.

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[1] By letter, dated May 28, 1985, enclosing his corrected testimony, Mr. Wright states: "On page 102, line 18—the word 'Koty' should read 'Coty'; and on line 20—the words 'Koty or Kodt' should read 'Coty or Cody'; and on line 23—the word 'Kodt' should read 'Cody'."

Senator EAGLETON. You have no idea. How about this Mr. Dunagan?

Mr. WRIGHT. I have met him several times.

Senator EAGLETON. You said you met him. Do you know him?

Mr. WRIGHT. I have met him several times.

Senator EAGLETON. So you got these two guys in at least to see Mr. Hanzlik, right?

Mr. WRIGHT. That is right.

Senator EAGLETON. Hanzlik called you back and you put another lady on your end of the phone to hear your end of the thing.

Mr. WRIGHT. No, sir, I did not put her on the phone.

Senator EAGLETON. You put her in the room. We won't repeat. That is only twice in your life, the first and second times you have done that?

Mr. WRIGHT. No, I said it could have happened before.

Senator EAGLETON. Hanzlik says under oath, he doesn't get involved in individual cases. He testified, it is in the hearing report No. 98-58, page 113, "I do not get involved in individual cases."

Why would he get involved in the Anchor-Canal case if he doesn't get involved in individual cases?

Mr. WRIGHT. I have no idea, Mr. Eagleton. You ask him.

Senator EAGLETON. But you made the call.

Mr. WRIGHT. He was the only person I had ever met.

Senator EAGLETON. He was the right guy to call to get the job done. Hanzlik is the guy to call over there.

Mr. WRIGHT. I have no idea if that is true or not. He is the only guy I ever met.

Senator EAGLETON. You brought him in. On this Gordon Harvey issue, is it your position you called the inspector general of DOE, Mr. Richards, James L. Richards to help Mr. Harvey? Is that your position?

Mr. WRIGHT. Yes, sir, I was going to get a resolution for the special counsel.

Senator EAGLETON. You wanted to help him, the poor fellow, Harvey?

Mr. WRIGHT. Sir, I am not saying poor fellow Harvey. I wanted to call for the special counsel to resolve the situation so they did not have to take specific adverse action.

Senator EAGLETON. It was in the nature of a good Samaritan call.

Mr. WRIGHT. I do that within the President's Council.

Senator EAGLETON. That is not what Richards testified to. Richards—and I cite this for the record, Mr. Chairman, James Richards is the inspector general of the Department of Energy—testified before the Merit Systems Protection Board about the pressure he got: "Oh, yes. You don't get calls from an official of that office and from the Chairman of the President's Council without feeling it's not just an ordinary phone call. It has an effect, of course, on me, so yes, it tended to make me, as we say in poker, it made me look at my hole card." You look at Mr. Richards' testimony in that Merit Systems trial.

Wright wasn't the good Samaritan, he was the bad Samaritan. He wasn't out to help Mr. Harvey, he was out to get Mr. Harvey.

Mr. WRIGHT. Senator, that is one of the most absurd statements I have ever heard.

Senator EAGLETON. You read Mr. Richards' testimony.

Mr. WRIGHT. I strongly, Mr. Chairman, deny that. If I would have, well, wanted Mr. Harvey to be disciplined, I would have simply allowed the case to go the way it was going to go anyway and told Mr. O'Connor that I would not try to go ahead and resolve it with Mr. Richards.

Senator EAGLETON. There are different ways of being an executioner, Mr. Wright. You picked your methodology. Others might have picked theirs.

Mr. WRIGHT. Mr. Eagleton, that, as many of the statements you have made, is an unfair comment.

Senator EAGLETON. I would continue with this, Mr. Chairman. I would ask that these witnesses come before the committee, and I would think that we would have some additional witnesses, I think some this afternoon and some tomorrow at the very least in addition to the names that have been previously mentioned in the record. I would ask that these be called, and I will summarize as an offer of what I think they will show when they come here.

Mr. Robert J. Wehrle-Einhorn, of Dayton, OH. Formerly he was with the Department of Energy. As an offer of proof, I think he will testify to this effect: "I was concerned about the Anchor case. Now it is not strange for a case to be held up a little while or temporarily. For example, there might be a congressional inquiry about a case. And we would hold it up for a little while to take a look at it. But in the Anchor case, it was delayed an unusually long time, and it was taken away from the Kansas City office and referred to the Dallas office for the review of the work we had already done in Kansas City and were continuing to do. These two things were most unusual." He emphasized the word "most."

"I recall learning that there was some high level Government official involved in the case. I was told that it was someone who had a great influence over the Department of Energy budget. I think I heard the name of Joseph Wright."

So I think Mr. Wehrle-Einhorn should be called.

Chairman ROTH. Senator Eagleton, could I ask that you submit the list of names that you want?

Senator EAGLETON. I want to make an offer of proof. I am entitled to make these witnesses that I have talked to personally——

Chairman ROTH. I am not disagreeing with that, nor intending to cut you off.

Senator EAGLETON. I want to give, in essence——

Chairman ROTH. If I might say, I think in fairness, as we bring each of these people, we should have the opportunity to hear all sides rather than the charges right now.

Senator EAGLETON. Some of these witnesses have not been heard of before.

Mr. David Jackson, I will be brief on this, Mr. Chairman.

Chairman ROTH. Very well.

Senator EAGLETON. Mr. David Jackson is an attorney now in Kansas City; he was an attorney with DOE. "I, David Jackson, would go back to Washington every month or so." He worked on the Anchor case in Kansas City.

"I would ask Hanzlik what about the Anchor case." Well, after 3 or 4 months, I was in a meeting with Hanzlik, Milton Lorenz, and

Aaron Landesman. These are all guys in the Department of Energy. One of them said to me, a high level Government official is involved in this Anchor case and let us take care of it. You don't need to worry about it."

Finally, I want to call Mr. William Lynch, who is here in town and still an auditor with the Department of Energy. He is with the Economic Regulatory Administration, and he was the supervising auditor on the Canal case. There are two different cases here: Anchor that was operated out of Kansas City and, where Kansas City got too close to succeeding, yanked down to Dallas; and Canal, which they kept up here.

They kept Canal up here. Here is what this fellow says, Mr. William C. Lynch, still on the Government payroll.

> I did all of my work on the Canal case. I had worked on the case real good. I had it approved by our lawyers. For example, Mr. Landesman already signed off on the case. It was ready to go. All I needed was Mr. Lorenz to approve it, so I went up to the front office.

That is where Mr. Lorenz is.

> I can't honestly remember whether I talked with Mr. Lorenz or his assistant. I asked why they weren't issuing the PRO on the Canal case. I was told I was being pushy and that I should go away. I don't know why it was never issued. Gee, it was never signed off on by Mr. Lorenz and the folks in the front office.

So we all know why they call him pushy when he was involved with the Canal case. I think we will have other witnesses, Mr. Chairman. I hope we have the validity to submit these names to you and the committee staff, and I hope these other witnesses will be afforded the same opportunity to testify.

Chairman ROTH. As I indicated earlier, we will proceed with the investigation and meet, of course, with you to determine what witnesses you want to bring forth, and we will do the same. In the meantime, we have been going on 3 hours, so thank you very much, Mr. Wright.

The committee is in recess.

[Whereupon, at 4:25 p.m., the meeting was recessed, to reconvene subject to the call of the Chair.]

MATTERS RELATING TO JOSEPH R. WRIGHT, JR., DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

TUESDAY, NOVEMBER 5, 1985

U.S. SENATE,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10:07 a.m., in room SD-342, Dirksen Senate Office Building, Hon. William V. Roth, Jr. (chairman of the committee) presiding.

Present: Senators Roth, Stevens, Cohen, Durenburger, Rudman, Cochran, Eagleton, Levin, and Gore.

OPENING STATEMENT OF CHAIRMAN ROTH

Chairman ROTH. The committee will please come to order.

The Committee on Governmental Affairs held a public hearing on May 13, 1985, concerning the published allegation that Joseph Wright, Jr., Deputy Director of the Office of Management and Budget, made a phone call to Rayburn Hanzlik of the Department of Energy on behalf of an oil company headed by Wright's father.

There was an additional allegation that Mr. Wright may have intervened in the personnel action against a Department of Energy employee, Mr. Gordon Harvey, who was involved in another case against a Wright family oil company.

Both of these allegations have been of great concern to the committee.

Since that hearing, committee staff have conducted a substantial investigation of these two allegations. After a thorough review of the results of that investigation, it is clear that the phone call is a central issue. Consequently, I have, with Senator Eagleton's concurrence, decided to depart from the original schedule announced last Friday, to forego testimony on the Gordon Harvey matter.

I believe that the committee ought to give first and foremost attention to the phone call, and that that issue should be expeditiously and fairly resolved. There are nine witnesses scheduled, and it is my hope that we can get started and conclude this matter today.

I am now happy to recognize Senator Eagleton for any comments that he may care to make.

Senator EAGLETON. I totally subscribe to the statement just made by the chairman, that we should proceed to the *Anchor-Canal* cases.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Nothing.

Chairman ROTH. Senator Durenberger.

Senator DURENBERGER. No.

Chairman ROTH. At this time I would like to call forward Mr. David Jackson.

Senator EAGLETON. I have a opening statement on the *Anchor-Canal* cases.

Chairman ROTH. Please proceed.

OPENING STATEMENT OF SENATOR EAGLETON

Senator EAGLETON. Mr. Chairman, I want to thank you for convening these hearings. I know you are as anxious as I to put to rest unanswered questions about the Energy Department's management of the price cases against two firms, one called Anchor Gasoline Corp., and another firm, which is a subsidiary of Anchor, called Canal Refining Co., in which OMB Deputy Director Joseph Wright, Jr., owns $550,000 or more of stock as of today. Back in 1982, it was valued at somewhere around $700,000.

Deputy Director Wright's conduct is a fundamental concern of these hearings. Were two cases, involving $36 million, improperly influenced as a result of the intervention of a highly placed Government official who has a substantial financial interest in the affected companies? That is the question. Or, to put it more bluntly, was there a fix causing the inexplicable delays in settling these matters or was it, as some would have us believe, and incredible, but innocent string of foul ups and blunders.

This is a question that we are going to have to examine here today. But I want to make it clear that it is not my only question, or my only concern about these cases.

Mr. Chairman, I think that it is very important that this committee not become so preoccupied with questions of what went on in the *Anchor-Canal* cases that we lose sight of what might still be going on in those cases.

Regardless of the conclusions one reaches about the causes of the delays, whether it was a fix or just an incredible mismanagement situation, one fact remains. The enforcement actions against Anchor and Canal have not gone forward to completion, not gone forward at this moment.

The first audit of Anchor—the *Anchor* case—began in mid-1979. It has been more than 3 years since the first charges were filed in the *Anchor* case, and when it was ready to go to litigation. It has been more than 5 months since the public revelations about Deputy Director Wright's intervention in the case. Yet, even as we sit here today, the case against Anchor is still unresolved.

The first audit of Canal began in early 1981. More than 2 years after the initial charges against Canal were prepared for filing, the case has finally made it to litigation, but it, too, is unresolved.

The members of this committee may disagree on some matters, but I believe that we are united on one point. If this was a fix, those who sought to profit from it should not be allowed to succeed. If it was gross management, the gross management should not be allowed to continue.

It would be a travesty if after all of the attention that has been given to these cases, these matters were left to die on a shelf somewhere, or settled in some quiet meeting for a penny on a dollar, simply because the spotlight of public attention has focused somewhere else.

I believe that this committee is determined that neither of these outcomes should come to pass.

In all fairness to all concerned—the public, which has a right to see that our laws are enforced, and to the companies involved, which Mr. Wright wasys are harmed because of the delays, I believe that this committee should insist on an expeditious and proper resolution of these cases.

Among the questions that I will ask of some of the witnesses today, and conceivably we might even need additinal witnesses to address fully this matter, is what is the present status of the *Anchor-Canal* cases. Where are the cases now? What is holding them up? When can we expect to see some progress?

Mr. Chairman, at the conclusion of these hearings, I intend to propose that the committee request the General Accounting Office to prepare a status report on the *Anchor* and *Canal* cases and, further, to monitor future development in those cases to provide regular and timely reports on this matter to members of this committee.

Mr. Chairman, I would like to use the remainder of my opening statement to lay out the background of this complicated matter and my concerns about certain events.

The Economic Regulatory Administration, which will be referred to in this testimony as the ERA, is a component of the Department of Energy. Its mission is to identify and investigate businesses which violate energy price control and entitlement laws and regulations.

In 1979, 6 years ago, the ERA initiated a series of audits of the Anchor Gasoline Corp. of Tulsa, OK. As a result of those investigations, formal charges were—they are proposed remedial orders, and in this testimony they will be called PRO's—filed against Anchor on September 14, 1982, charging the company with violations of price control regulations amount to some $7.4 million. With interest, Anchor's total liability for the alleged violation was some $16 million.

During this same period, a second ERA case, Energy Rgulatory case, was opened against the Canal Refining Co. of Church point, LA, which is a wholly owned subsidiary of Anchor. This audit revealed alleged violations of entitlement programs of some $12 million, plus $8 million in interest charges. You don's have to be much of a mathematician, if you add the *Anchor* case with interest and the Canal case with interest, the two cases involved come to some $36 million, and that is no small sum for two firms which have combined yearly sales of about $100 million.

On September 23, 1982, 9 days after the PRO had been filed against Anchor, OMB Deputy Director Wright called ERA Administrator Rayburn Hanzlik—I think we will call him Ray Hanzlik throughout this hearing—and asked him to meet with company officials.

The very next day, a meeting was held in Kansas City between ERA staff and Anchor officials. Mr. Hanzlik did, in fact, meet with Anchor officials at a later date. The testimony will show that the meeting that took place on September 24 in Kansas City had been prearranged between the Government officials, Mr. David Jackson and Mr. Wehrle-Einhorn and the Anchor officials, Coty Dupre and their lawyer, Mr. Dunagan.

Following Deputy Director Wright's call to Mr. Hanzlik, meaningful progress on both of these ERA cases against Anchor and Canal halted. No doubt about it, Mr. Chairman, after Wright calls Hanzlik, the *Anchor* and *Canal* cases fall off the cliff for all practical purposes. After Wright calls Hanzlik, kiss Anchor and Canal goodbye.

In fact, following the September 23 call—that is the Wright call to Hanzlik—in late 1982 or early 1983, the word began circulating throughout ERA that there might be improper intervention in the *Anchor* case. Key ERA staff in its Kansas City office, specifically Mr. David Jackson, who will be our first witness in attendance, and Mr. Robert Wehrle-Einhorn, who has had a heart attack and will testify through previous testimony—those two gentlemen testified under oath to that fact.

Mr. Jackson has said that in late 1982 or early 1983, he was told that "a high level Government official, with an interest in the company, was involved in the case"—the *Anchor* case, because that is the one that was under his jurisdiction at that time.

Mr. Wehrle-Einhorn has said that in early 1983, he was told that "someone in a position to influence the Energy Department's budget" was interested in the *Anchor* case. The two people in the country who could most influence the Energy Department's budget, David Stockman, now departed to other chores, and Joseph Wright, the Deputy Director of OMB.

Suddenly, in early 1985, when DOE investigators and the press began making inquiries into the cases and into the ERA operation in general, there commenced a flurry of activity on those cases. The cause of this activity is unclear, but its proximity to the time of the DOE and press inquiry makes one wonder if it wasn't a classic case of CYA going on.

As I mentioned earlier, however, these cases, despite the 1985 flurry, the press looking into it, the inquiries and the shuffling of paper around in a real flurry, despite that, Anchor and Canal are still unresolved.

Neither Deputy Director Wright nor Mr. Hanzlik disputes that the September 25, 1982, call took place. What is in dispute, however, is certain events surrounding the call. One contested point is whether or not Deputy Director Wright talked to Mr. Hanzlik about the *Anchor* case prior to that September 23, 1982, telephone call.

In sworn testimony before this committee in May, Mr. Wright told Senator Roth, and then at another point told Senator Rudman, that the September 23 call was the first time he had spoken to Hanzlik about the charges against Anchor. That is what he told this committee. That telephone call was the first time he had spoken to Hanzlik about the *Anchor* case.

Information developed by the committee staff, and I commend the committee, because it was developed by Senator Roth's staff, indicates that Deputy Director Wright did, indeed, discuss this matter with Mr. Hanzlik prior to the September 23 call. In fact, Deputy Director Wright spoke with Mr. Hanzlik about the *Anchor* case at a cocktail party.

Mr. Wright's executive assistant, Maryanne Ferko, a later witness in this hearing, believes that the conversation took place about a week before the September 23 phone call, and that would place the discussion just a few days after ERA had formally filed its charges against Anchor. ERA filed its charges against Anchor, the formal charges, on September 14. From September 14 to September 23 is 9 days. Sometime during that period, according to Mrs. Ferko's recollection, about a week before the 23rd, Joe Wright and Hanzlik meet at a cocktail party. Joe Wright talked to Hanzlik about the *Anchor* case. Ferko remembers it, as she will testify, because Joe Wright told her so. Joe Wright told his own administrative assistant about the cocktail party conversation.

Deputy Director Wright, in his May 13 testimony before this committee, was certainly not candid about that cocktail party conversation with Mr. Hanzlik. He had the following exchange with Senator Rudman at that hearing.

> Senator RUDMAN. Prior to the first conversation you had with Mr. Hanzlik, the initial conversation, had you discussed the matter of Anchor-Canal problems with anyone else in Government?
>
> Mr. WRIGHT. Not that I am aware of, no, Senator. You would have to include my administrative assistant.
>
> Senator RUDMAN. I am not including her. I am including any other OMB officials, Energy Department employees, White House employees, or Members of Congress.
>
> Mr. WRIGHT. No, sir.

This is one of the points that we will want to explore in these hearings today.

Now some other events prior to the Wright-Hanzlik phone call of September 23 need some explanation. A few minutes before his call to Hanzlik, Wright received a call from Anchor's vice president for marketing, Coty Dupre. Coty Dupre, basically, on a day-to-day basis, runs Anchor and Canal. Mr. Dupre didn't get through to Mr. Wright on that first call, supposedly. The call came in right before Joe Wright was going to call Hanzlik, and he didn't get through. We will want to explore that.

Then there were two subsequent calls that day, after Joe Wright talked to Hanzlik, from Coty Dupre to Joe Wright. There were three calls on that important day of September 23 between Wright and Dupre. One before Wright talked to Hanzlik, when he didn't get through, maybe, I wonder, and then two after. Deputy Director Wright's telephone log for the 23d also shows that he made a call to Mr. Dupre almost immediately after speaking to Mr. Hanzlik.

The exchange of calls between Wright and Dupre is highly significant, because they are precisely the kind of information the committee was looking for in the first hearing and that Deputy Director Wright knew they were the kind of information we were asking. Deputy Director Wright should have made the existence of these calls known to the committee.

Instead he made no reference to them. In fact, he gave this committee the impression that he really didn't know all that much about Coty Dupre, and he didn't even know how to spell his name. He didn't even know how to spell Coty. This is the man who runs his family company, which today he has $550,000 in, and back in

1982, when he was making the phone call, he had a $700,000 interest in, and that is just 3 percent. His father and his sister own more. Mr. Dupre is vital to the financial state of the company, to Mr. Wright's future, to his life, and what happens to that company, and he didn't know how to spell the name Coty. Mr. Dupre is the man running the company, and Mr. Wright didn't know how to spell his name.

After all, Dupre is a vice president of the company, and he is also president of Canal. Further, Mr. Wright has been hunting with Mr. Dupre. He has had dinner with Mr. Dupre on some occasions. It is very strange.

Candor, or more properly put, the lack of it that Mr. Wright displayed before this committee, says something about his attitude toward the entire affair. Not only did Mr. Wright omit from his May testimony the pre-September 23 conversation with Mr. Hanzlik at a cocktail party and the exchange of phone calls with Mr. Dupre, but he was less than forthcoming about his later meetings with Mr. Hanzlik concerning Mr. Hanzlik's desire for a new job.

In his May testimony, Wright claimed not to remember any of the details of Mr. Hanzlik's job search. He couldn't remember whether the job search was in Government or in the private sector. The fact is, Mr. Hanzlik was sent to Wright, he was sent to his office on January 19, 1983, to discuss a specific position under Wright's supervision. The position would be OMB Assistant Director for Business and Economics, a political appointment, and one that Wright could award to Hanzlik at Wright's discretion. Why was Wright so evasive on this point? Why didn't he come forward and acknowledge the details of that meeting?

I know that the OMB Deputy Director carries a heavy workload, but I don't believe he forgot the meeting. My only conclusion is that Wright was aware that the knowledge of such a meeting might cause reasonable observers to suspect the existence of a quid pro quo arrangement between himself and Mr. Hanzlik.

When Mr. Wright made his September 23 phone call to Hanzlik, he was sensitive enough to the appearance of impropriety that he called in his assistant to witness part of the call, yet he seems oblivious to the appearance of this meeting.

In addition, there are several other points of ambiguity concerning ERA's handling of the *Anchor-Canal* cases after the September 23 Wright-Hanzlik phone call. It is a fact, it is a fact that progress on both of these cases stopped—after the phone call—dead in their tracks. The reasons for that stoppage are in dispute in my mind, but not maybe in the minds of some in this room.

Regarding the case against Anchor, ERA Administrator Hanzlik met with Anchor officials in October 1982. Two senior ERA staff members, Special Counsel Milton Lorenz and Deputy Special Counsel Avrom Landesman, were also in attendance. Subsequent to this meeting, Mr. Lorenz took control of the *Anchor* case. He met with Anchor officials twice more in November 1982.

In March 1983, Mr. Lorenz ceased further work on the $16 million case against Anchor. Why? Because a computer analysis performed by ERA staff, at his direction, had reduced Anchor's liability from $16 million to $80,000. This reduction allegedly resulted from a recalculation of Anchor's nonproduct costs.

Frankly, Mr. Chairman, that is one hell of a computer that can wipe out $15.9 million in the blink of an eye. I would like to see the data that went into that analysis and the results of that analysis. I will bet that there are some oil and gas executives who would like to see it as well so that they can figure out how to do it.

I will bet you that if that same computer guy—we will have him here—ran it again, with the encouragement of Lorenz and some other fellows, the Government might well owe Anchor several million dollars if they keep running phony computer runs. We will get into that.

The fact is, though that we can't see any of that, the backup material to the phantom computer run. The fact is, nobody can produce any records, the data, where it came from, how it was applied. No written copy was kept of any of the results. Nothing can be found in the computer's memory to establish either the data or the results.

No written copy was made for Mr. Lorenz who requested the analysis, or for the DOE's file in the *Anchor* case, this miraculous computer run. Mr. Lorenz just accepted the word of the computer specialist who performed the analysis that Anchor's liability was near zero, and he shelved the case.

That computer specialist, his name is Crowell, and he is a witness today, claims that he received new information from ERA's Kansas City office showing that Anchor had incurred some $20 million in nonproduct costs. He doesn't know who in the office supplied him with that information, and the three senior staff members in the office deny supplying such information to him.

Meanwhile, the Department of Energy's so-called enforcement history on the *Anchor-Canal* cases, a document prepared in April 1985, states that the new information supplied by Anchor resulted in a reduced liability. New information supplied by Anchor, not new information out of Kansas City. The enforcement history information is just dead wrong.

New information was supplied to ERA by Anchor, but it arrived in May 1983, well after the time of Mr. Crowell's analysis. Further, Mr. Crowell admits that even using Anchor's figures, it only reduces the company's liability by about $1 million. Crowell has rethought the matter. He has rethought the phantom computer run.

Finally, Mr. Crowell claims that his computer analysis was based on his feeling that the original data in the *Anchor* case were "queer," and that they didn't fully account for all of Anchor's applicable nonproduct costs. In fact, the ERA's original analysis of Anchor's liability documents that nonproduct costs were included from the beginning. Page after page is devoted to the subject.

It would appear that the ERA auditors bent over backward to give Anchor all reasonable allowance for nonproduct costs. As is indicated by this quote from the original charges, "The audit, in effect, allowed all claims of increased nonproduct costs by respondent, although respondent never demonstrated that it incurred such increase."

That nonproduct costs were included in ERA's original calculation of Anchor's liabilities is patently obvious by simply glancing at the original document. If Mr. Crowell had done that, as he said he did, he could not have overlooked that fact.

On what, then, was his phantom computer run based? We will want to hear more from Mr. Crowell on this matter, as well as from other auditors who compiled the original charts.

To sum it up, Mr. Chairman, the ERA's case against Anchor was shelved for 22 months because of this phantom computer analysis, based on an incorrect assumption, using data and procedures that cannot be documented.

That is the *Anchor* case, and now I will briefly turn to Canal.

On January 20, 1983, a draft of formal charges against Canal was presented to ERA Special Counsel Milton Lorenz. Remember who Milton Lorenz is. He is that same Milton Lorenz who was simultaneously directing the *Anchor* case. Milton Lorenz is the guardian angel of both Anchor and Canal. They are under his wing.

The draft carried the approval of DOE's Office of General Counsel, and called for Canal to make restitution in the amount of $20 million, fines and interest, for alleged violation of the entitlements program.

During the next 2 years, the draft of the charges against Canal were revised eight different times—eight. At no time during his involvement in this process was Mr. Lorenz satisfied. In fact, the ERA staff working on this case said that Mr. Lorenz simply stopped giving them guidance as to how to improve the case against Canal, that this was clearly unusual.

Witnesses will testify that it was normal procedure for Special Counsel Lorenz to approve entitlements cases recommended by his staff. Lorenz will explain that the delay resulted partly from concerns in the outcome of another entitlement case pending before the courts, one involving Cities Services Corp., that changed the legal theory underpinning the *Canal* case. If so, then why was another entitlement case, with substantially the same circumstances as Canal, allowed to proceed during this time?

Stop Anchor. Stop Canal. Lorenz put on the brakes. Moreover, if the original charges against Canal were so poorly drafted, why were they duplicated almost word by word in the charges that were finally filed against Canal in April and May 1985 when the heat was on, when the newspaper reporters were snooping around, and you had to start covering your ass?

The only critical difference between the two was that the amount of interest owed and charged increased from $8 to $10 million. Therefore, it appears that the action on the *Canal* case was blocked for more than 2 years by requests for information not needed to go forward with litigation, and by concerns that were misplaced and selectively applied.

This concludes my opening statement, Mr. Chairman. I would like to request that the record remain open so that I might submit additional materials at a later time, or at this time, if you want me to do so.

Chairman ROTH. The record will be kept open.

Let me make just two or three comments. There is intent to get to the bottom of this situation in a manner that is fair and based upon facts. I understand and I appreciate the extensive statement made by the ranking member of the minority. I do, however, ask that the panel, in the interest of fairness, listen with care to each of the witnesses who will appear before us today.

The witness list has been agreed upon by the majority and minority, and I would point out to the panel, as well as to the other observers, that all witnesses who will be here before us today will be under oath. I think that it is only fair that we all reserve our judgment on this matter until we have an opportunity to call these witnesses before us and hear what they have to say.

I am determined that these hearings are going to be fair to all concerned, and that everybody will have their opportunity to speak. With that, I would call upon my distinguished friend, Senator Rudman, for any comments he may care to make.

Senator **RUDMAN**. I think the chairman has summed it up. I don't think that it is terribly important how any of us up to now draw our conclusions. I say that with all respect for my good friend, Senator Eagleton. I think that we have the best evidence in the room, so let's hear it.

Chairman **ROTH**. Senator Gore.

OPENING STATEMENT OF SENATOR GORE

Senator **GORE**. I agree with your statement that we should get on with the witnesses and listen to what they have to say, but I must say that we have listened to witnesses earlier on this. I gave the benefit of the doubt to Mr. Wright when he testified before, based upon his reputation and some other matters. I am sorry to say that I have been disappointed by the investigation of the minority and majority staff since that hearing, because subsequent evidence that has been produced by the committee investigation indicates to me that the committee was misled by Mr. Wright in his first appearance.

This case is more significant than normal because Mr. Wright, in addition to being the No. 2 person in arguably the most powerful agency in the executive branch at the present time, is also the Chairman of the President's Council on Integrity. He remains in that position. Yet, the evidence that has been presented to this committee indicates, to summarize it briefly, that Mr. Wright after finding that his family business, in which he had an interest of more than half a million dollars, was charged with violating the law and was liable to repay substantial amounts of money that it had illegally taken from the American consumer, behaved in a questionable manner.

Mr. Wright abused his position by contacting those in charge of pursuing that law violation, or alleged violation, and asking them to essentially fix the case.

The person in charge of pursuing the law violation, Mr. Rayburn Hanzlik, who will testify here today, willingly cooperated and, indeed, fixed the case.

Then, when the committee took testimony about it, the committee was misled.

I would like to say one other thing briefly, Mr. Chairman, and that is there is a context in which this sequence of events must be viewed. The law, which required oil price controls, was changed when this administration took office. It had been the subject of a very vigorous debate, and many people disagreed strongly with the law establishing oil price controls. That was understandable.

But when the law was changed, the American people were given solemn assurances that those who had violated that law while it was on the books as the law of the land would be prosecuted, and that repayments would be required to the American people who had money taken from them illegally.

Those assurances, we now know, were laughable. The history of the DOE enforcement program under this administration has been virtually a complete sham. While the officials in charge of policy enforcement have repeatedly assured the Congress that they are executing their duties and responsibilities, it has only proven to be misleading lipservice.

In case after case, whether by delay, settling cases for trivial sums of money as compared to the actual overcharges, or by just plain bureaucratic inaction, the Department of Energy under this administration has done its best to merely go through the motions, and those within the industry who violated the law have been let off the hook.

So in some respects, this case before us is merely typical of a whole series of fixes that have taken place. Oil and gas concerns with powerful political connections complained in just the right places, and the violations were papered over. The case was fixed.

But in other respects, Mr. Chairman, this case is not typical. It is unique and, therefore, all the more disturbing and outrageous. The reasons have been amply explicated by the ranking minority member, and I will not be redundant by going through the instances in which the prior testimony was misleading. But, if at the end of this hearing the impression created by the evidence gathered thus far is not overturned, then I think that it is up to us to recommend legal proceedings. It then is up to Mr. Wright, at a very minimum, to resign his position as Chairman of the Council on Integrity, and to consider resigning his position in OMB as well.

I eagerly await the evidence that we will hear today. Thank you, Mr. Chairman.

Chairman ROTH. Senator Cohen.

Senator COHEN. I don't have an opening statement, Mr. Chairman. I agree with Senator Rudman that before we hang Mr. Wright we ought to have the trial first. Let's hear the evidence.

Chairman ROTH. Senator Cochran.

Senator COCHRAN. Mr. Chairman, I am reminded of a book I read before I went to law school entitled, "Oxbow Incident." That is what this is. We are hearing the jury verdict before the evidence is in.

To say right now that the committee was misled at an earlier hearing as a characterization of testimony we have heard is unfair. I was here, and I don't feel like I have been misled.

I am certainly anxious to hear the testimony of witnesses, and I hope I can keep an open mind and review that testimony, and make some conclusions after we hear the witnesses' testimony. I think to characterize at this point in the hearing Mr. Wright's actions as a fix is also unfair.

I want to hear the evidence, too, and I appreciate the chairman's leadership in this effort to get at the truth. I think that this is what we will do today, find out the truth.

Chairman ROTH. Thank you, Senator Cochran.

Senator **Eagleton**. Mr. Chairman, I have some material that I would like to put in the record at this time, if I may have your leave. It has been agreed to, I think. I will state what the material is.

At this point, I would like to put in the record a document entitled, "Individuals Cited in the Matter of Joseph Wright." It is, in essence, a cast of characters to help people follow who it is we are talking about during various parts of this hearing.

Chairman **Roth**. Could we, in the interest of expediting the hearing, have a chance for the majority staff to review those. It is my understanding that they have not.

Senator **Eagleton**. Before we call Mr. Jackson, I have some material to put in the record preceding his testimony so that there will be some needed continuity. I will describe what that material is, and why I want it entered preceding the testimony, and have it introduced in the record at this particular time.

Chairman **Roth**. If it refers to the witness——

Senator **Eagleton**. No, it doesn't refer to Mr. Jackson. It refers to the gentleman who under normal circumstances would have been our first witness, Mr. Robert Wehrle-Einhorn.

Chairman **Roth**. Again, I will be happy to give those careful consideration.

Senator **Eagleton**. I will make an offer of proof at this time as to what I would have been able to show by this testimony. I am entitled to make an offer of proof. Most of my colleagues are lawyers——

Senator **Rudman**. Is this a judicial proceeding, Mr. Chairman?

Senator **Eagleton**. This is a case that is entitled, "In the Matter of Joseph Wright," and I was entitled to make an opening statement.

Chairman **Roth**. Let me say, at this stage, that we had agreed on the order in which witnesses would be called. I would like to proceed along that line, and not be interrupted by other matters at this time. We may have no objection to any of the materials, but I think the important thing is to hear from the witnesses.

Senator **Eagleton**. It is indispensible to the orderly presentation of this case to explain why Mr. Robert Wehrle-Einhorn, who conducted the audit of Anchor, who is the author of the PRO, why he is not here as the first witness. He is not here as the first witness because he had a severe heart attack. He did testify on this matter, under oath, last June 25 before the Dingell committee in the House. He had his heart attack after that.

In the hearing, he gave sworn testimony, he was cross-examined, and he stated that Landesman or Lorenz told him in 1983 that a high Government official was influencing the course of the *Anchor* case.

He is a central witness, and he would have preceded Mr. Jackson. He said that Landesman or Lorenz told him in 1983 that a high Government official was influencing this case, and he drafted the PRO.

What I would have sought to do was to put his testimony, his sworn testimony under oath in the Dingell hearing, and to put in the staff interview, both the Roth staff and the Eagleton staff, so that in the record we would have a complete picture of what Wehrle-Einhorn would have said were he the first witness.

Chairman **Roth**. We will include his testimony in the Dingell hearings, if the Senator would like to incorporate that by reference. I would hate to have the whole thing printed because of the cost. I suggest that we incorporate the entire hearing by reference, so that it becomes part of the permanent record.

Senator **Eagleton**. Would we have it printed in the record in chief, or as an appendix, the entire record of the Dingell hearings?

Chairman **Roth**. What I was suggesting is that we just incorporate it by reference, without having to go to the cost of printing it.

Senator **Eagleton**. Then I will make specific reference because nobody but a numbskull is going to sift through it and read a 500-page record.

Senator **Cohen**. Mr. Chairman, may I make a recommendation?

Chairman **Roth**. Senator Cohen.

Senator **Cohen**. May I make a recommendation that we accept the testimony that was given before Congressman Dingell's Committee by this auditor?

Senator **Eagleton**. Yes, I think that it would be appropriate to accept the Wehrle-Einhorn sworn testimony before the House, and specifically to call attention to pages 143 through 146, inclusive.

Senator **Cohen**. That would avoid printing the entire record of the Dingell hearing and would put his statement in the record.

Senator **Eagleton**. I really see no objection to that.

Chairman **Roth**. Is there any objection?

[No response.]

Chairman **Roth**. Without objection, so ordered.

[The printed matter referred to, pages 143 through 146, follow:]

Mr. **Dingell**. That they would decide.

Mr. **Jackson**. Yes, sir.

Mr. **Dingell**. Why would they decide that? Because a high government official was involved in the case?

Mr. **Jackson**. I have no idea.

Mr. **Eckert**. How did you react to that?

Mr. **Jackson**. They were my supervisors. I had other work to do. It didn't bother me.

Mr. **Eckert**. Did you comment on it to anyone else?

Mr. **Jackson**. Not that I know of.

Mr. **Eckert**. Did you ask anyone, which high government official?

Mr. **Jackson**. Do you want me to answer the first question?

Mr. **Eckert**. I thought you did.

Mr. **Jackson**. I probably would have told Bob or my staff back in Kansas City. He had a genuine concern. It was his case.

Mr. **Eckert**. You say you probably would have. Did you?

Mr. **Jackson**. I am guessing that I did.

Mr. **Eckert**. Did he?

Mr. **Wehrle-Einhorn**. I don't recall. I was told the same thing from another source, however.

Mr. **Eckert**. Did you ask?

Mr. **Wehrle-Einhorn**. What?

Mr. **Eckert**. Which high government official?

Mr. **Wehrle-Einhorn**. I think I was told, but the name didn't mean anything to me.

Mr. **Eckert**. Who were you told by?

Mr. **Wehrle-Einhorn**. I am not sure. I think it was Mr. Landesman or Mr. Lorenz.

Mr. **Dingell**. Mr. Landesman or Mr. Lorenz.

Mr. **Eckert**. When did they tell you this?

Mr. WEHRLE-EINHORN. I am not sure of the time. I believe it was probably after winter, perhaps in Kansas City.

Mr. ECKERT. How did it come about they said this to you? Was it in a telephone conversation, at a meeting?

Mr. WEHRLE-EINHORN. No, sir, I was told, I think, in person in Kansas City.

Mr. ECKERT. You remember you were told in person, but you don't remember who told you?

Mr. WEHRLE-EINHORN. That is correct.

Mr. ECKERT. You don't remember when? You remember specifically you were told in person, as opposed to a telephone conversation, but you don't recall who told you or when that person told you, is that correct?

Mr. WEHRLE-EINHORN. That is correct.

Mr. ECKERT. Did you ask? Did you ask which high government official it was?

Mr. WEHRLE-EINHORN. I believe I was told. But the name did not mean anything to me, and because of that, I did not remember.

Mr. ECKERT. If a name was mentioned to you with which you were unfamiliar, did you ask what the position of that person was?

Mr. WEHRLE-EINHORN. My recollection is that I was told it was someone in a position to influence the Department's budget.

Mr. ECKERT. Did you ask which position?

Mr. WEHRLE-EINHORN. No, sir.

Mr. ECKERT. Were you curious?

Mr. WEHRLE-EINHORN. Yes, I was.

Mr. ECKERT. Do you ask questions when you are curious?

Mr. WEHRLE-EINHORN. Sometimes. The information had been offered to me. I did not want to——

Mr. DINGELL. You say the information was offered to you?

Mr. WEHRLE-EINHORN. Yes. sir.

Mr. DINGELL. This you said, was sometime after winter?

Mr. WEHRLE-EINHORN. I believe it probably was February, March, April, something of that sort.

Mr. DINGELL. February, March, April of what year?

Mr. WEHRLE-EINHORN. 1983

Mr. DINGELL. Did you talk to Mr. Jackson about this?

Mr. WEHRLE-EINHORN. Yes, I believe so.

Mr. DINGELL. What did you tell Mr. Jackson?

Mr. WEHRLE-EINHORN. That I had been told that the case was being held up because it was sensitive and someone was in a position to cause it to be held up.

Mr. DINGELL. Say that again.

Mr. WEHRLE-EINHORN. That some high official—that the case was being held up because of some pressure or possible pressure from some high official either in the Department of Energy or the White House.

Mr. DINGELL. In the Department of Energy or the White House?

Mr. WEHRLE-EINHORN. Yes, sir.

Mr. DINGELL. Did you recognize this name as being a name of an officer in the Department of Energy?

Mr. WEHRLE-EINHORN. No, sir.

Mr. DINGELL. Did you recognize it as being a name in the White House?

Mr. WEHRLE-EINHORN. No, sir.

Mr. DINGELL. Did you recognize it as being a name in the Office of Management and Budget?

Mr. WEHRLE-EINHORN. No, sir.

Senator EAGLETON. Now I offer the staff interviews by both the Roth staff and the Eagleton staff, of Mr. Wehrle-Einhorn, for the record at this point, to speak as they may to this matter of what Wehrle-Einhorn knew and when he knew it.

Chairman ROTH. My only concern there is that those statements are not under oath, and we have already admitted his statement under oath.

Senator EAGLETON. As Senator Rudman points out, this is not a trial. We do engage in hearsay.

Senator RUDMAN. Most of the time, I would say.

Senator EAGLETON. We leap around, a great deal in this hearing, as to opinion evidence and as to hearsay evidence. It seems to me that with a witness—a central witness—who suffered a severe heart attack, that this record would be incomplete if we didn't put in the interview statements of both staffs for whatever they may reflect for those who read them.

Senator RUDMAN. Mr. Chairman.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Mr. Chairman, I only want to make the observation that this gentleman testified before the House committee under oath. We have that testimony and it is in the record. It is the best evidence. I have no idea what is in those statements, whether it is favorable or unfavorable to the witness or anybody in this room. But I don't think that we ought to start mixing staff interpretations of interviews, not under oath, so long as we have evidence that is under oath.

We have the evidence under oath. If we did not, I would not feel this way. I will not object, I will leave that for the chairman to decide, of course, but I would hope that since we are talking about some very serious matters here involving the integrity of people, to the extent possible, we ought to use the best evidence. The best evidence is evidence under oath.

Senator EAGLETON. Mr. Chairman, I will make this offer, that the two staff interviews, one done by your staff and one done by my staff, bear out the testimony given under oath by Wehrle-Einhorn that in 1983, he Wehrle-Einhorn was told by Landesman or Lorenz of the influence being brought to bear on this case by a high Government official in 1983, which is a very important date as we will hear from the next witness.

Chairman ROTH. I would at this time, like to point out that I think that it is important that we proceed with the testimony under oath, and whatever other material we have, I am willing to consider this matter further But it does concern me that neither the statement of the majority staff nor the minority staff were under oath. There is a question as to when they were prepared. I think that it raises a serious question whether that is fair to the case at hand.

At the present time, I would rule in the negative, but I am willing to give this matter further consideration.

I would like to proceed with David Jackson. Mr. Jackson, please come forward.

Mr. Jackson, would you raise your right hand. Do you swear the testimony you will give before the committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. JACKSON. I do.

TESTIMONY OF DAVID JACKSON, FORMER EMPLOYEE, DEPARTMENT OF ENERGY

Chairman ROTH. Thank you, Mr. Jackson.

Do you have a prepared statement that you would like to make at this time?

Mr. JACKSON. No, sir.

Chairman ROTH. Mr. Jackson, I understand that you were employed by the Department of Energy from July 1974 until January

1985. Could you tell us where you were stationed and what your duties were?

Mr. JACKSON. I was stationed in Kansas City, MO, from the period of July 1974 through probably the end of 1981. I was regional counsel for what was then region VII of the Department of Energy, and its predecessor organizations, the Federal Energy Administration, in the Federal Energy Office.

In December 1981 through January 1985, I became Director of the Office of Special Counsel for the Economic Regulatory Administration for their Kansas City office. There was a period from the year 1981 to the year 1982 which I also was regional counsel at the same time.

Chairman ROTH. When did you first become involved in the *Anchor* case?

Mr. JACKSON. I would have first become involved in the *Anchor* case in September 1982, prior to the issuance of the PRO.

Chairman ROTH. Could you give a brief description of what the allegations were in the *Anchor* case?

Mr. JACKSON. They were overcharged allegations of $7.4 million.

Chairman ROTH. I understand you attended a meeting in Kansas City with representatives of Anchor on September 14, 1982. It appears from the record that additional meetings took place on September 24, October 18. Who was present at these meetings and what was discussed?

Mr. JACKSON. Myself; Bod Wehrle-Einhorn of my staff; Coty Dupre, an officer for the company; his attorney, Mr. Donagan.

Chairman ROTH. Was there any mention by anyone in any of these meetings of Joe Wright?

Mr. JACKSON. No, sir.

Chairman ROTH. Did anyone at the Department of Energy ever tell you to delay the *Anchor* case?

Mr. JACKSON. I don't understand your question. For me to delay it?

Chairman ROTH. That is correct.

Mr. JACKSON. No, sir.

Chairman ROTH. You have indicated at some point that you were told that a high Government official had an interest in the *Anchor* case. Is that correct?

Mr. JACKSON. Yes, sir.

Chairman ROTH. Who told you that?

Mr. JACKSON. It would have been either Avrom Landesman or Milt Lorenz.

Chairman ROTH. It is my understanding that at the Dingell hearing, you said that it could have been Hanzlik, Landesman, or Lorenz.

Mr. JACKSON. It could have been Hanzlik. My best judgment would be the latter two.

Chairman ROTH. Let me ask you. What is your recollection? In the earlier hearing, you gave three names, and here you are giving two. What is the basis of your answer?

Mr. JACKSON. The basis of my answer is that I would come to Washington usually once a month with all the directors to report to the national office staff. These reports would be meetings with Mr. Landesman and Mr. Lorenz and Mr. Hanzlik of my inventory of cases. After the Anchor officials had received their PRO, I would come back here to Washington and I would remind them that the company had the PRO, and the Federal Register notice had been sent in to the national office, and it had never been published.

Some time after the company received the PRO, I was informed in one of these meetings, by one of these individuals, that they would take care of the issuance of the Federal Register notice for two reasons, the two reasons being that besides *Anchor,* there was a companion case, *Canal,* which was an entitlements case, which it was a national officer program. The second reason being that a high level Government official was involved in the case.

I do not remember the exact words, but those were the essence of the words that were told to me.

Chairman ROTH. So the record is clear, could you specifically tell what was said, again, to the best of your recollection, and who said it?

Mr. JACKSON. I would have to say the same thing I just said.

Chairman ROTH. Would you say once again what you were specifically told.

Mr. JACKSON. I was told by one of the three individuals, the three individuals being Mr. Landesman, Mr. Lorez, and Mr. Hanzlik, that they would take care of issuing the Federal Register notice in the *Anchor* case for two reasons. The two reasons being that there was a companion case called *Canal,* which was an entitlements case, which was a national office case. The second reason being that a high level Government official was involved in *Anchor.*

Chairman ROTH. When were you told this?

Mr. JACKSON. I was told this sometime between the period of November 1982 and May 1983.

Chairman ROTH. Let me ask you, how can you identify what period it was?

Mr. JACKSON. Before I came back to the Dingell hearing, I received a letter from their counsel. Mr. Finnegan, who asked me to bring with me everything that I had in my possession concerning the *Anchor* case. I told him that the only thing that I would have, which they had not seen when they had previously come to Kansas City, there could be material in my travel files concerning the case.

I went back to my travel files for the period of January, May 1983, and I found my notes on the cases I reported on. In the file in May 1983, I have the notation of Lorenz besides the name of the *Anchor* case.

Chairman ROTH. You say between November 1982 and May 1983, could it have been earlier or later?

Mr. JACKSON. Could what have been earlier or later?

Chairman ROTH. What you have just repeated that you heard about a high official.

Mr. JACKSON. It wouldn't have been earlier than November 1982 because the last meeting we had with *Anchor* case was in October 1982. Consequently, I would not be bringing it to their attention until after October 1982 that the company had received the PRO, that the Federal Register notice had been sent to the national office, and that they had not published the Federal Register notice.

Chairman ROTH. Where was this meeting held?

Mr. JACKSON. What meeting?

Chairman ROTH. The meeting where you were told about the high official.

Mr. JACKSON. Back here in Washington, DC, ERA's national office.

Chairman ROTH. Again, who was present at that meeting?

Mr. JACKSON. Avrom Landesman, Milton Lorenz, I know were there, and Ray Hanzlik may have been there.

Chairman ROTH. What was your reaction to this information?

Mr. JACKSON. My reaction was, it's OK with me. I had other cases to take care of.

Chairman ROTH. What action did you take on the case?

Mr. JACKSON. On what case?

Chairman ROTH. On the *Anchor* case.

Mr. JACKSON. I didn't take any further action on it.

Chairman ROTH. Was it unusual for a company you were negotiating with to go to Energy Department officials in Washington for discussions with such officials about such cases?

Mr. JACKSON. Some companies would try an end run around you and go to Washington, other ones did not have the sophistication to try and do that.

Senator GORE. Would the chairman yield?

Chairman ROTH. I would rather, if we could, try to complete. I would like to limit the initial questioning to 10 minutes for each Senator.

Senator EAGLETON. I would suggest this, Mr. Chairman, for yourself, that you be permitted to go through a full line of interrogation, uninterrupted, and the rest of us be under the 10-minute rule. It is terribly difficult to bring out a complete story in 10-minute segments and counter-segments, thrust and counter-thrust. I think you have done very well in bringing out the picture. I think, for the edification of all us, I would be perfectly satisfied that you complete your total line of inquiry, and I will limit myself to 10 minutes.

Chairman ROTH. I have completed at this stage my list of questions.

Senator Eagleton.

Senator EAGLETON. Mr. Jackson, I want to clarify the significances of a PRO and a Federal Register notice.

You issued the PRO against Anchor on September 14, 1982.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. You had a meeting with the Anchor officials on that very day.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Did you hand them a copy of the PRO?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Did you even discuss some kind of settlement on that day?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Did they offer you some kind of a figure, or was a figure mentioned?

Mr. JACKSON. I believe they were offering $50,000.

Senator EAGLETON. You met with them 10 days later on September 24, with Coty Dupre and Mr. Dunagan.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Did they discuss a figure then for settlement?

Mr. JACKSON. Their sequence of offers commenced at $50,000 and went up to $500,000.

Senator EAGLETON. Somewhere along the line it went from $50,000 to $500,000.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. When you issue a PRO, what normally happens in the cast bulk of cases that you have handled after you have issued a PRO?

Mr. JACKSON. You issue the PRO. You publish the Federal Register notice, and that commences the time running for the company to make its response to get the case before OHA.

Senator EAGLETON. So that is the key, the publication in the Federal Register starts the series of legal events; is that right?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. The PRO by itself puts the company on notice.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. But the Federal Register notice starts the timeclock.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. To this date, all during your tenure with the Department of Energy, has anything been published in the Federal Register on the *Anchor* case?

Mr. JACKSON. Not to my knowledge.

Senator EAGLETON. Not to anyone's knowledge, it hasn't. So they have never started the timeclock.

Now, the meeting in Washington took place sometime between, did you say, November 1982 and May 1983.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. You can verifty that or corroborate that by your own travel sheet documents.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Do you have the travel sheet documents with your?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Did you show them to me yesterday?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Did you show them to Senator Roth's staff yesterday?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. I offer, for the record, in their entirely, the travel documents of Mr. Jackson.

Chairman ROTH. Without objection, so ordered.

Senator EAGLETON. Refer to your travel documents, will you. There are some color markings on yours, but ours are black and white because of the inadequacy of our Xerox process. But you have some color markings on yours, do you not?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. I am referring now to the doucment—the pages are not numbered, but I will count them manually—it will be page 6, although not numbered as such, in their continuity. It is a document marked February 1983. Is that correct?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. That document on that page contains a list of cases that you had in your inventory out there in Kansas City, does it not?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Then there are some lines through some cases, are there not?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Under the small refiner cases, what is the first case that appears there?

Mr. JACKSON. No. 1, Anchor Gasoline Corp.

Senator EAGLETON. There is a line through it.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. In what color,

Mr. JACKSON. Green.

Senator EAGLETON. Are there lines through any of the other cases on that sheet?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. This was your discussion sheet that you would take to Washington with you to discuss things with Mr. Lorenz and Mr. Landesman; is that right?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. By then didn't you, when you went to Washington, deal mostly, with Lorenz and Landesman?

Mr. JACKSON. Yes. sir.

Senator EAGLETON. Hanzlik might pop in and out of this or that meeting, but you are a lawyer dealing with legal issues, Lorenz is a lawyer, you were dealing mostly with legal issues in cases, were you not?

Mr. JACKSON. When we would go over the inventory of cases, it was mostly with Lorenz and Landesman.

Senator EAGLETON. Whether Hanzlik was in the room at a certain time or out of the room at a certain time, you didn't keep a stopwatch or clock him in and out of the room, did you?

Mr. JACKSON. Hanzlik would come and go at times.

Senator EAGLETON. Throughout the time, you would be dealing with Lorenz and Landesman mostly.

Mr. JACKSON. Yes.

Senator EAGLETON. What does it means to you, looking down that sheet with the lines through about eight cases on that sheet or so, begining with Anchor under the small refiners—what does that bring back to your mind, if anything?

Mr. JACKSON. Those cases, in the period of February 1983, had reached the status of either a PRO being issued or a consent order being negotiated with the company.

Senator EAGLETON. Could it also mean that, although you had physical possession of the Anchor file, that cases was no longer under your de facto and daily jurisdiction?

Mr. JACKSON. Are you saying, does my green line mean that?

Senator EAGLETON. When you start lining out cases, does it not mean that some of those have been disposed of, settled, or otherwise handled?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. A green line through Anchor, somehow, that case was no longer as actively under your jurisdiction as the next case, Bi-Petro, Inc.

Mr. JACKSON. That is correct.

Senator EAGLETON. Skip through the documents to March 3, 1983.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Again, this is one of your monthly meetings in Washington.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. This is your inventory of cases. Under small refiners, there is Anchor Gasoline Corp. at the top.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. It has another line through it, does it not?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Then there is some handwriting there. What does that mean, "PRO," whatever it says there.

Mr. JACKSON. "PRO-national office."

Senator EAGLETON. "PRO-national office."

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Thinking back, looking at your notes, this is March 1983, Anchor Gasoline Corp., and it is lined out, "PRO-national office." What does that bring back to your memory?

Mr. JACKSON. That they had taken control of the case.

Senator EAGLETON. The national office.

Mr. JACKSON. Yes.

Senator EAGLETON. By the way, was there anything particularly unusual about the *Anchor* case? Was it unique? Did it raise unusual questions of due process, equal protection, very rarified and sophisticated legal issues, or was it a fairly typical run-of-the-mill case that you were handling through the Kansas City office?

Mr. JACKSON. It was the run-of-the-mill of Bob Wehrle-Einhorn cases.

Senator EAGLETON. So PRO-national office, by March 1983, and then we get to—again from your documents—May 12, 1983. Do you see those documents, and those are handwritten?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. That first sheet.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. That sheet was prepared by Mr. Wehrle-Einhorn, and it has his initials on it.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. W-E.

Mr. JACKSON. Yes, sir, it is RWE.

Senator EAGLETON. It is what?

Mr. JACKSON. RWE.

Senator EAGLETON. It is a cover-sheet to another document which, again, is an inventory sheet of cases; right?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Skipping to the page, again, the small refiner column, are you with me?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. It is a document on Department of Energy stationery, dated December 10, 1982.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. The reason for that date is that Wehrle-Einhorn used it as a backup document to his May 12 coversheet.

Mr. JACKSON. Yes, sir. It is photocopy of the December 10 memo.

Senator EAGLETON. He used it as a backup to a May 12 document, and under Anchor, the case name, what does it say after the typewritten word "Anchor?"

Mr. JACKSON. Lorenz.

Senator EAGLETON. Whose writing?

Mr. JACKSON. Mine.

Senator EAGLETON. What color?

Mr. JACKSON. Red.

Senator EAGLETON. What does that bring back to your mind as of May 12, 1983?

Mr. JACKSON. That Lorenz had taken control of the case.

Senator EAGLETON. That is why you have the timeframe from November to May. It could have been earlier than May. Indeed, earlier statements indicate PRO-Washington.

Mr. JACKSON. Yes, I would imagine that it was February.

Senator EAGLETON. But to be fair about it, anywhere from November to May, although the file stayed in Kansas City, the decisionmaking process to go forward with the Federal Register notice went to Washington, DC, and Milton Lorenz.

Mr. JACKSON. Yes, sir.

Senator GORE. Mr. Chairman, I would like to yield 5 of my 10 minutes to Senator Eagleton.

Chairman ROTH. I think, in fairness, I should really have followed the early bird rule, and called on Senator Rudman next. When it comes to your time, you can yield, but at this time, we are going to keep a limitation, and I think that it has to be enforced.

Senator Rudman.

Senator RUDMAN. Thank you, Mr. Chairman.

Mr. Jackson, the title of this hearing is "In the Matter of the Deputy Director of OMB," and I am not going to ask you too much about why this case hasn't worked out as in your view it should have, because it seems to me, from your answers to Senator Eagleton, you really don't know the answer to that question. It that correct?

Mr. JACKSON. I don't understand your question.

Senator RUDMAN. You don't understand why this case has not been decided earlier than it has.

Mr. JACKSON. No, sir.

Senator RUDMAN. You don't know that.

Mr. JACKSON. No, sir.

Senator RUDMAN. So I just want to ask about Mr. Wright's alleged involvement and see if you can help us with that.

I have a statement here that was in our folder when we got here. It says, "Statement of David H. Jackson." Have you seen this statement?

Mr. JACKSON. Is that what you gave me yesterday?

Senator RUDMAN. Would you take this down to the witness and ask him to look at it and see if he recognizes that statement.

Have you seen it before?

Mr. JACKSON. Yes, I saw it yesterday.

Senator RUDMAN. Who prepared that statement?

Mr. JACKSON. I don't know.

Senator RUDMAN. You didn't prepare it?

Mr. JACKSON. No. It was given to me by Mr. Rinzel.

Senator RUDMAN. Mr. Rinzel, can you tell me who prepared that statement?

Mr. RINZEL. We got it from the minority staff.

Senator COCHRAN. I don't think anybody heard his response.

Senator EAGLETON. The minority staff prepared the affidavit, I will be glad to submit for the record.

Senator RUDMAN. I just want to know who prepared the statement, that is all.

Senator EAGLETON. It is from the affidavit, and it was translated into a statement.

Senator COCHRAN. By the minority staff.

Senator EAGLETON. Yes.

Senator RUDMAN. The minority staff prepared this statement. Do you accept this statement as your statement?

Mr. JACKSON. There are a couple of changes I would make.

Senator RUDMAN. But you basically agree with it?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Let's have him make the changes.

Senator RUDMAN. I am going to ask him about them, Senator Eagleton, believe me, I am.

I want to read you, on page 2, paragraph 2, the following part of that statement, Mr. Jackson, "On the occasion of one of these trips to Washington, probably in the period between October 1982 to March or April 1983, I was in a meeting with Milton Lorenz, the special counsel, and Avrom Landesman, his deputy. The *Anchor* case was discussed in that the Federal Register notice for *Anchor* had not been published by the national office. One of these two men, Lorenz or Landesman, said that a high level Government official had an interest in the *Anchor* case, and the national office would decide when to publish the Federal Register notice. I was also informed that there was a case against Canal Refining, a subsidiary of Anchor."

Do you agree with that?

Mr. JACKSON. Except that I would change the October date to November, and the March or April to May.

Senator RUDMAN. But basically, other than that, you agree with the statement?

Mr. JACKSON. Yes, sir.

Senator RUDMAN. Let me send down to you exhibit 56 from the House hearings. Exhibit 56 is entitled, "Discussion of Anchor Gasoline file with Regional Manager of Kansas City," dated December 19, 1984, signed by Roy Taylor and John Lucas. Have you seen that before?

Mr. JACKSON. I may have, I don't remember.

Senator RUDMAN. Would you look it over and tell me whether or not—go ahead and look it over. I don't have that many questions, so look it over and tell me whether or not you have seen that before.

Senator EAGLETON. Do you have an extra copy of that, Senator?

Senator RUDMAN. I thought that it was in our file here.

Why don't you read as far as the third question.

Senator **Eagleton**. If it is going in the record, if you are going to question him about it, he ought to read it all.

Senator **Rudman**. I am not putting it in the record, Senator Eagleton. It is in the House record, and I am not going to put it in this record.

Senator **Eagleton**. You are not going to put it in this record?

Senator **Rudman**. If you wish, we can.

Senator **Eagleton**. It is your document.

Mr. **Jackson**. I am down to the third question.

Senator **Rudman**. That is the one that I am talking about. Have you attempted to follow up and assure that the case is processed. That is the question that was asked of you. Answer: Yes, Bob Wehrle-Einhorn of my staff has contacted both Milton and Avrom on several occasions and attempted to have the Federal Register notice published. However, he was advised that there was a high level OMB interest in the case. Is that accurate?

Mr. **Jackson**. From what I know, yes.

Senator **Rudman**. Is that an accurate description of what you told the IG?

Mr. **Jackson**. Yes, sir.

Senator **Eagleton**. Who is the "he," let's clarify that. Is that Wehrle-Einhorn?

Mr. **Jackson**. Yes, sir.

Senator **Eagleton**. That tracks with the evidence that I was trying to get in earlier.

Senator **Rudman**. I just want to ask a question of Mr. Jackson.

Senator **Eagleton**. He is very important, Mr. Wehrle-Einhorn.

Senator **Rudman**. Senator Eagleton, a lot of your questions, I could find substantial disagreement with, and I kept my mouth shut. I would appreciate it if you would do the same. I have 10 minutes, and I let you use your 10, I would like to use my 10.

Senator **Eagleton**. I yield 10 minutes to Senator Rudman off of my time.

Senator **Rudman**. Mr. Jackson, the "he" in there refers to Bob Wehrle-Einhorn; is that correct?

Mr. **Jackson**. Yes.

Senator **Rudman**. Here is my question, and it is a simple question. On December 19, 1984, in response to a general question, "Have you attempted to follow up and assure that this case was processed?" your answer is, yes, and then you go on to explain some information that one of your subordinates has reported to you, indicating that there is high level interest in the case. I don't understand why you did not at that time, tell the inspector general of a statement made to you by two of the three highest officials in the Department of Energy. Will you explain that to me? I don't understand the inconsistency.

Mr. **Jackson**. They prepared this. I didn't prepare this. This is what they put down.

Senator **Rudman**. I understand that. Are you suggesting to me that if you had also told them of the facts contained in paragraph 2 of your statement that we have here today, that they would have omitted that from exhibit 56?

Mr. **Jackson**. Are you talking about question 2?

Senator Rudman. I am talking now about your reference in your statement today, which you say you basically agree with, in which you talk about being told about this here at DOE in Washington.

Mr. Jackson. Senator, they are both true.

Senator Rudman. They are both true.

Mr. Jackson. Yes, sir.

Senator Rudman. I don't doubt you, Mr. Jackson. I am not trying to impugn you. I am asking you a question. Why didn't you tell the IG about it?

Mr. Jackson. Senator, I don't know if I told the IG, or if I didn't tell the IG. The IG prepared this, and the fact that they didn't put in the same information that is in paragraph 2 that you are referring to, to me they are both consistent. They are not inconsistent at all.

Senator Rudman. I didn't say that they were inconsistent. But in terms of which is more important, I think you would agree with me that your statement of today is probably more important than the statement in the IG about hearsay that you heard from Mr. Wehrle-Einhorn. You are a lawyer; you ought to agree with that.

Mr. Jackson. No; I would not necessarily agree with that. All of my cases were assigned to specific attorneys. When you have a matter of a Federal Register notice, whichever case it would be, I would have the respective attorneys do the followup, do the calls. I had 180 cases. I couldn't do 180 calls. I had four attorneys assigned and they would go with their programs. That is what this IG statement is about.

Senator Rudman. But when the IG asked you whether you intended to follow up, I would assume you would have told him, no, I am not going to follow up because of what I learned in Washington.

Mr. Jackson. The followup goes like after the PRO, what I do with my staff to follow up, and that is what is done. I would have Bob call several times up there. This would have been going on during the same time period of my November through May period like that.

Senator Rudman. Are you relatively sure here this morning, because you weren't in the House hearings, as to when this meeting took place in Washington in which you were advised of what you stated in your statement here? Are you pretty sure now as to when that was?

Mr. Jackson. Through these travel notations of mine, yes, sir.

Senator Rudman. Are you sure that it was when?

Mr. Jackson. November 1983 through May 1983.

Senator Rudman. Did you make a memorandum to your file of that conversation?

Mr. Jackson. No, sir.

Senator Rudman. You did not.

Mr. Jackson. No, sir.

Senator Rudman. You have no written record of that conversation that you make contemporaneous with the meeting, or even months afterward?

Mr. Jackson. The contemporaneous notations would have been the notations which Senator Eagleton was just asking me, which I identified as being my handwriting.

Senator RUDMAN. I am thinking of your own personal files in Kansas City in terms of indicating the highest officials of this department had advised you that there was high level interest. You don't have any contemporaneous memorandum stating that?

Mr. JACKSON. No.

Senator RUDMAN. Didn't you think that was significant at all, Mr. Jackson?

Mr. JACKSON. It appeared to me to be significant, and that is why they were taking control of the case.

Senator RUDMAN. Being that significant, and a case involving $36 million, didn't you think that it might have been prudent to have a memo in the file at least covering yourself and stating what they said to you?

Mr. JACKSON. My case was not $36 million, first off.

Senator RUDMAN. Whatever.

Mr. JACKSON. Senator, this was sort of a period of crunchtime, or what-have-you, I had other cases to be concerned about. If my superiors wanted to take over the authority for a case, that was fine.

Senator RUDMAN. I understand that, but would it not be a normal procedure to put a notation in the file, which would have made this whole hearing easier?

Mr. JACKSON. I didn't do that. I rarely put notations in the file. The only notation you will find in the file will be like on yellow pads after a meeting, or whatever, when I might scribble notes. Sometimes they will get in the file if the secretary puts them in. Otherwise they get thrown away.

Senator RUDMAN. Thank you, Mr. Chairman.

Chairman ROTH. Senator Gore.

Senator GORE. Let me get this timeframe clear in my own mind. The conversation which really forms the core of the testimony you are offering to the committee occurred between November 1982 and May 1983. You believe that it is more likely than not that it was in February, but in order to be safe, you are making it between November and May. Is that correct?

Mr. JACKSON. Yes, sir.

Senator GORE. So that the significance of that time period is not lost, let's relate it to the conversations which Mr. Wright had with Mr. Hanzlik about this case.

According to the evidence presented to the committee, Mr. Wright spoke to Mr. Hanzlik in the middle of September 1982 about the case. Then on September 23, 1982, Mr. Wright had a series of telephone calls from the officials of the oil company, Anchor and Canal, and spoke to Mr. Hanzlik.

Soon after that, from September 23 to November through May, was the time period when you were told by your superiors that a high Government official had an interest in this company; that as a result it was going to be handled a little bit differently.

Mr. JACKSON. Yes, sir.

Senator GORE. Now you were asked by the chairman whether or not it was unusual for officials of the companies under investigation to come to Washington. You responded, no, some did and some didn't, depending on their sophistication.

Was it unusual for you to be told, in meetings with your superiors, that a "high Government official" had a financial interest in one of the companies that was being investigated by your office?

Mr. JACKSON. Yes, sir.

Senator GORE. Had it ever happened prior to that time?

Mr. JACKSON. Yes.

Senator GORE. Had you ever been told on any other occasion, before that or after that, that one of the companies your office was investigating was a company in which a high Government official had a financial interest?

Mr. JACKSON. I was told one other time, it may have been before or it may have been after the Anchor thing, go have a meeting with this company because Senator Tower wrote a letter on behalf of the company.

Senator GORE. That is quite different, though, isn't it? [General laughter.]

Mr. JACKSON. In my mind, it is not that different. It is a Government official, a Senator, but I can see your distinction. [General laughter.]

Senator GORE. To underscore the crucial distinction, which is not between a high Government official and a Senator, but between having a financial interest in the company on the one hand, and writing a letter on behalf of a company on the other hand. That is really the distinction, right?

Mr. JACKSON. Yes, sir; it was very unusual.

Senator GORE. Was there ever another time in your memory when you were told by your superiors that a high Government official or a Senator, or anybody in the Government, had a financial interest in one of the companies that you were investigating?

Mr. JACKSON. No, sir.

Senator GORE. There were other times, were there not, when control of cases that you were investigating was assumed by the Washington headquarters office; correct?

Mr. JACKSON. Of my inventory of cases, I cannot recall another one. It could have happened. I am not saying it didn't.

Senator GORE. So, it could have.

Mr. JACKSON. You are just asking me a question and it is kind of hitting me cold.

Senator GORE. I don't know the answer to the question. I will give you my impression. My impression is that in a few cases, the Washington office would assume control of an investigation.

Mr. JACKSON. It would have been very few.

Senator GORE. It was relatively rare.

Mr. JACKSON. Yes, sir.

Senator GORE. This may not have been the only time when that occurred, but it would be very rare. Is that accurate?

Mr. JACKSON. Yes.

Senator GORE. When you were told that a high Government official had a financial interest in the company and that as a result the control of the investigation was going to be taken away from the Kansas City office and given to the Washington headquarters office, you knew then that that was very unusual. Did you have any feelings about that? Did you think at the time this just doesn't sound right to me?

Mr. JACKSON. At the time, no, sir.

Senator GORE. Is that because you were working down a very large backlog, and you were relieved to get rid of a case that was going to be handled then by somebody else? Is that the reason for that, or can you speculate?

Mr. JACKSON. My speculation would have been that your reason would have been one of your reasons. A secondary reason, or maybe a primary reason, is that the companion case, maybe it was their strategy to hold up on my case and let both cases go forward at the same time to see if they could wrap it up on in one ball of wax.

Senator GORE. So it didn't flag your attention right then as an unethical matter because you were told that in the same conversation that there was a companion case involving Canal; right?

Mr. JACKSON. Yes, sir.

Senator GORE. Were you told that the same high Government official had an interest in Canal?

Mr. JACKSON. No, sir.

Senator GORE. Were you told that Canal was a wholly owned subsidiary of Anchor?

Mr. JACKSON. By companion case, I don't know that it was a subsidiary, I thought that it was like a sister corporation. I didn't know what the legal ownership was. I didn't have any doubt in my mind that the same principals were involved in both cases.

Senator GORE. Just for the record, you were director of the Kansas City office at the time these events occurred, correct?

Mr. JACKSON. Yes, sir.

Senator GORE. The picture I get from this, Mr. Chairman, both from the testimony of Mr. Jackson and from the statement submitted by Mr. Wehrle-Einhorn, who couldn't be here, is that they pursued an alleged law violation by this oil company, and they investigated it in a normal fashion. It reached the stage where the clock was about to be started, and all of a sudden, in one of their normal conferences with their superiors in Washington, their superiors said, wait a minute, a high Government official has a financial interest in this company, so we are going to handle this one ourselves.

That statement occurred soon after Mr. Wright had had two conversations with Mr. Rayburn Hanzlik, Mr. Jackson's superior, in which Mr. Wright requested that the case be handled on an expedited basis, or made whatever request he made.

Just one final series of short questions, Mr. Jackson.

Do you remember exactly what the Anchor Co. was alleged to have done?

Mr. JACKSON. I remember the figure of $7.4 million.

Senator GORE. What kind of case was it?

Mr. JACKSON. It was either a small refiner or an NGL case.

Senator GORE. I think that the record will elaborate on that, and I won't go into it in detail here.

Thank you for your testimony.

Chairman ROTH. Senator Cochran.

Senator COCHRAN. Thank you, Mr. Chairman.

Mr. Jackson, were you influenced in any way in your handling of the *Anchor* case by hearing that an official in the administration had an interest in the case?

Mr. Jackson. Was I influenced?

Senator Cochran. Yes.

Mr. Jackson. What do you mean by influenced?

Senator Cochran. Were you influenced, did you change anything?

Mr. Jackson. No, sir.

Senator Cochran. Did you change anything that you would have done upon hearing that an official in the administration had an interest in the case?

Mr. Jackson. No, sir.

Senator Cochran. I have no other questions, Mr. Chairman.

Senator Gore. Would the Senator yield?

Senator Cochran. The Senator can ask his questions on his own time. That is the only question I had.

Senator Eagleton. It is my time to inquire, and then I will yield to Senator Gore.

Chairman Roth. Senator Eagleton.

Senator Eagleton. You weren't influenced in this case because they yanked it away from you; isn't that true, Mr. Jackson?

Mr. Jackson. Yes. I gave the company the PRO.

Senator Eagleton. You issued the PRO.

Mr. Jackson. That is right.

Senator Eagleton. Then Lorenz and Landesman pulled it back to Washington, and wouldn't print it in the Federal Register, which starts the clock ticking. You weren't influenced. Lorenz and Landesman were influenced.

Wasn't this a relatively small case, a small refiner case, and that is how it appears on your travel sheets, does it not, a small refiner case?

Mr. Jackson. It was a good size case for the Kansas City inventory.

Senator Eagleton. It is a small company.

Mr. Jackson. It is a small company in relationship to the universe of the oil companies.

Senator Eagleton. Your own travel sheets call them a small refiner.

Mr. Jackson. Yes. sir. The Kansas City office didn't have any major refiners.

Senator Eagleton. Let's just take January 1983, and I will read you the nine, and tell me from your memory where Anchor fits in this list. Refer to your document of January 1983.

Mr. Jackson. Yes, sir.

Senator Eagleton. There is Anchor, Bi-Petro, Eason Oil, Hamilton Bros., Johnson Oil, Lakeside Crystal, Hester Refining, Total Petroleum, Vickers. Where does Anchor fit in among those nine?

Mr. Jackson. Do you mean sizewise?

Senator Eagleton. Yes, the size of the case, or the size of the company, if you know?

Mr. Jackson. I don't know.

Senator EAGLETON. Is it not true that the *Anchor* case keeps appearing on your travel documents, the inventory document that you discussed with Lorenz and Landesman, monthly?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. The reason that it appears is that you still had the physical file, did you not, in Kansas City?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. You had custody of the file; is that correct?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. But the decisionmaking process on it was down with Lorenz, Landesman, and Hanzlik.

Mr. JACKSON. From my own knowledge, the decision to publish in the Federal Register was back in Washington.

Senator EAGLETON. That is the only way to start the case, isn't it?

Mr. JACKSON. What they were doing, I don't know.

Senator EAGLETON. As far as publishing the notice in the Federal Register, that is down in Washington with those three guys.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. How long had Mr. Wehrle-Einhorn worked with you?

Mr. JACKSON. I can't remember exactly, but several years.

Senator EAGLETON. Was he an able fellow?

Mr. JACKSON. Yes, sir. He was very, very able.

Senator EAGLETON. Was he a very bright fellow?

Mr. JACKSON. Yes, I would say that he was a walking digest of our regulations.

Senator EAGLETON. Do you know where he ranked in his class at the Kansas University Law School?

Mr. JACKSON. I ~~think~~ that he ranked third. He was in the top 10 of his graduating class.

Senator GORE. Is that a good school?

Senator EAGLETON. Better than the University of Tennessee. [General laughter.]

Senator GORE. I will have my own time.

Senator EAGLETON. Was he one of your best men?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. When it came time to close up shop there in Kansas City, that was in the latter part of 1984.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. They were going to phase out your office.

Mr. JACKSON. That is correct.

Senator EAGLETON. You and a whole bunch of people were going to be RIF'd.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. They were going to downsize the enforcement of these entitlement cases, gas cases.

Mr. JACKSON. We didn't have any entitlement cases.

Senator EAGLETON. You didn't have any entitlement cases.

Mr. JACKSON. No.

Senator EAGLETON. You didn't have anything to do with Canal.

Mr. JACKSON. No.

Senator EAGLETON. They were downsizing the enforcement of cases like Anchor.

Mr. **Jackson**. Yes, sir.

Senator **Eagleton**. Wasn't the Department of Energy very generous to Mr. Wehrle-Einhorn?

Mr. **Jackson**. Mr. Wehrle-Einhorn had moved earlier to a post of duty of one in Akron, OH.

Senator **Eagleton**. They moved him to a post of duty of one in Akron, OH.

Mr. **Jackson**. I believe, it is where Wright University is located.

Senator **Eagleton**. Dayton, OH, or somewhere in Ohio.

Mr. **Jackson**. Yes, sir.

Senator **Eagleton**. Did his wife move there because she——

Mr. **Jackson**. She got a job at Wright University, and that is why he was either going to quit, and they wanted to keep him on for his expertise, so they created a post of one where they moved to in Ohio.

Senator **Eagleton**. They gave him a special deal so that he could stay with his wife as they were moving to Ohio. I think the record will show that it is Dayton. They went out of their way to give him this special post because of his past exemplary public service.

Mr. **Jackson**. They created the post, Senator. I can't say if it is special or not, but that is the only one that I know of.

Senator **Eagleton**. Do you know of anyone else out of your office who got assigned to a duty of one post?

Mr. **Jackson**. No, sir.

Senator **Eagleton**. So that is certainly unique as far as your office is concerned.

Mr. **Jackson**. Yes, sir.

Senator **Eagleton**. You say that he is one of the best men you ever had under your supervision.

Mr. **Jackson**. Yes, sir.

Senator **Eagleton**. So when Mr. Wehrle-Einhorn told you that he had been contacted by both Milt—Milt is Milton Lorenz—and Avrom—Avrom is Avrom Landesman—and on several occasions, he had attempted to have the Federal Register notice published, however, he, Wehrle-Einhorn, was advised that there is high-level OMB interest in this case, would you believe Wehrle-Einhorn, your trusted aide?

Mr. **Jackson**. Yes, sir.

Senator **Eagleton**. You had issued the PRO on September 14, met with Coty Dupre and Mr. Dunagan. And then you met on September 24 with Coty Dupre and Dunagan again. Was that case proceeding expeditiously as you viewed it, the *Anchor* case?

Mr. **Jackson**. Yes, sir. The 10-day second meeting was like the normal procedure that we operated in the Kansas City office.

Senator **Eagleton**. When would you have expected that the PRO would have been published in the Federal Register under normal practice?

Mr. **Jackson**. They normally were published like 10 days to 2 weeks after we would send them to Washington.

Senator **Eagleton**. Within 10 days to 2 weeks, they would be in the Federal Register.

Mr. **Jackson**. Yes.

Senator **Eagleton**. I ask unanimous consent to put in the record an excerpt from the report of the inspector general for the Department of Energy that is on its way from the Department of Energy. It will show what the usual procedure was, 10 days, 2 weeks, 1 month, and at the outside a couple of months, between the time a PRO is issued and the publication in the Federal Register.

Now you spent 10 years in the Kansas City office.

Mr. JACKSON. Eleven years.

Senator EAGLETON. You were counsel for 7 or so.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. You were director for 3 years or so.

Mr. JACKSON. Yes.

Senator EAGLETON. So you are intimately knowledgeable about that office. Would you say that the cases in that office were handled expeditiously?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Were you rewarded by the Department of Energy for your distinguished service in that office in any way?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Tell us how.

Mr. JACKSON. I received cash awards and merit pay, I guess you call them, bonuses.

Senator EAGLETON. Merit pay, and then some sort of a cash bonus.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Are those merit pay and cash bonuses approved here in Washington? You don't self-execute them in Kansas City.

Mr. JACKSON. I assume that they are approved here in Washington, I don't do them. I did them for my own staff.

Senator EAGLETON. But you can't approve yourself.

Mr. JACKSON. I could nominate my own staff, and I would have to send those to Washington also.

Senator EAGLETON. Who would nominate you?

Mr. JACKSON. I would assume, my superior.

Senator EAGLETON. Who was your immediate superior that you reported to in Washington?

Mr. JACKSON. I don't know that there was a line-staffing chart or not. I would report to——

Senator EAGLETON. Who did you most often report to?

Mr. JACKSON. Avrom Landesman would be my main contact. I guess my chain would be Landesman, Lorenz, and then Hanzlik.

Senator EAGLETON. So it would be fair to assume that one of those three, or all of those three, approved merit pay increases and cash bonuses for your service. President Reagan doesn't know you, does he?

Mr. JACKSON. I don't know, Senator. [General laughter.]

Senator EAGLETON. I want to introduce for the record at this time, Mr. Chairman, documents that have been cleared with your staff, a letter from Anchor Gasoline Corp., dated September 30, 1982, to David Jackson, Kansas City. In the letter, it refers to the meeting on September 24 previously testified to, and it says:

> Anchor offered to pay $500,000 in settlement of all enforcement actions pending against Anchor.

Chairman ROTH. Without objection, so ordered.

[The letter referred to follows:]

Anchor Gasoline Corporation

114 EAST FIFTH STREET
TULSA, OKLAHOMA 74103

September 30, 1982

Mr. David H. Jackson
Director, Kansas City Office
Department of Energy
324 East 11th Street
Kansas City, Missouri 64106

Dear Mr. Jackson:

As you requested, we are enclosing financial information for Anchor Gasoline Corporation for the company's last nine fiscal years. 1/ This confidential and proprietary business information is being furnished in order to achieve a fair settlement of all pending enforcement actions as suggested by Mr. Hanzlik in his June 14, 1982 letter to us and in our June 25, 1982 letter written in response. As evidenced by letters dated December 31, 1981 and June 10, 1982 to the Assistant Regional Counsel, Mr. Wehrle-Einhorn, we have always believed that it would be in the best interest of both the government and Anchor to effect a reasonable settlement. Thus in meeting with you on September 24, 1982, we offered to pay $500,000 in settlement of all enforcement actions pending against Anchor. 2/

In your September 24, 1982 meeting with Coty R. Dupre, Vice President of Anchor Gasoline Corporation and President of its wholly-owned subsidiary, Canal Refining Company, I understand that you briefly reviewed the enclosed Schedule A offered by our outside counsel, R. N. Dunagan. As discussed on September 24, Schedule A is a list of refiners and gas processors like Anchor, which signed Consent Orders with the DOE's Washington office, Kansas City office, and other regional offices in 1982. 3/ It shows the amount of each firm's Consent Order and the relationship of the settlement amount to the allegation of overcharge contained in the Notice of Probable Violation issued to the firm.

The enclosed Schedule B illustrates the relationship of the settlements made by these firms to each company's net income, current assets, and total assets for 1979, 1980, 1981 and 1982 to the extent we have been able to obtain each company's financial information from public sources. 4/ Using data from the most recent four years provides a sufficiently broad universe of data while avoiding the distortion which would occur if settlement figures paid in 1982-1985 dollars were compared with net income and asset figures in historically deflated dollars (i.e., pre-1979 income and asset figures).

Analysis of Schedule B shows that all firms have settled for a percentage of (1) net income, (2) current assets and (3) total assets which calculates to less than the $500,000 offered by Anchor. For example, the highest percentage of settlement to net income for all firms listed in any year from 1979 through 1981 was American Petrofina's payment of 18.88% in 1981. Applying this percentage against Anchor's 1982 fiscal year net income results in a settlement figure of $355,101 or almost $145,000 less than Anchor has offered DOE to settle its cases.

In comparing the ratio of settlement amount to total current assets, Anchor's offer of $500,000 is also in excess of the highest percentage paid by the seven (7) firms listed in Schedule B. That percentage (2.75% of 1981 current assets paid by American Petrofina) when applied to Anchor's latest current asset figure of $17,178,604 results in a settlement amount of $472,412, or approximately $30,000 less than Anchor has already offered.

In analyzing the ratio of settlement paid to total assets, once again Anchor's offer of $500,000 exceeds the highest ratio of any firm listed on Schedule B. In settling its enforcement actions, American Petrofina paid 1.22% of its total assets as of December 31, 1981, the highest percentage recorded in that year for all of the firms listed. Applying this percentage to Anchor's total assets as of April 30, 1982 (its last fiscal year), results in a settlement figure for Anchor of $366,119. Even using Anchor's largest total assets in the years 1974 through 1981 (i.e., the fiscal year 1980 number of $31,795,052) and multiplying that figure by 1.22% results in a Consent Order number of $387,900, not an amount in excess of $500,000. Should DOE strain at the bounds of reasonableness and seek to apply the highest yearly percentage of all firms listed in Schedule B in any of the years 1979 through 1981 (1.30% of total assets paid by American Petrofina in 1979) against Anchor's greatest amount of total assets in the last four years ($31,795,052 in 1980), the result is still only a settlement of $413,336--far less than Anchor's settlement offer of $500,000. (Apply the high 1979 percentage of 1.30% to Anchor's 1979 total assets of $18,771,525 and one derives a settlement number of only $244,030, less than one half of Anchor's settlement offer.)

By whatever measuring device used: net income, current assets, or total assets, the results remain the same. In offering to settle pending DOE enforcement matters by paying $500,000, Anchor has made an offer which exceeds any of the known settlements made by a representative group of refiners and gas plant operators in 1982. See Schedule C.

In the spirit of equity and fairness put forth by Mr. Hanzlik in his June letter to us, we encourage you to accept our offer.

Sincerely,

ANCHOR GASOLINE CORPORATION

E. W. Clopton

E. W. Clopton
Financial Vice President

EWC/rh

Enclosures

Footnotes

1/ This submission of financial information is being provided solely to facilitate a reasonable settlement and is not to be considered an admission that Anchor violated any Department of Energy (DOE) regulations nor is the information to be used for any other purpose.

2/ The enclosed financial statements document the size and resources of Anchor Gasoline Corporation through April 30, 1982. They do not address Anchor's financial future.

In his meeting with you on September 24, 1982, Coty Dupre outlined the financial problems facing small refiners particularly in light of the Environmental Protection Agency (EPA) proposal to reduce the lead content of gasoline. As evidenced by the enclosed Exhibit A (Mr. Dupre's testimony before the EPA), if lead levels are lowered to 1.1 grams per gallon (gpg), on November 1, 1982, Anchor's capital requirements would be between 10 and 20 million dollars, about half of Anchor's total assets. In his testimony, Mr. Dupre also noted that in the last year over 50 refineries were closed down because they were no longer profitable and that bankruptcies have increased 44%. Even if lead limits for small refiners are established at more than 1.1 gpg by the current EPA rule-making, Anchor anticipates that EPA will require the firm to reduce its lead content of gasoline below the currently allowed limit of 2.65 grams per gallon. Thus the result will almost certainly be significantly increased capital and operating costs. Even if massive investment is not required immediately, the company faces an increased financial burden.

3/ The companies listed on Schedule A reflect all the Consent Orders signed by the Director of the DOE's Kansas City office of which we are aware, as well as a representative cross section of all other Consent Orders signed by refiners and gas plant operators in 1982. As noted above, this list was prepared and presented to the Kansas City office on September 24, 1982, prior to the commencement of the analysis contained in Schedule B enclosed with this letter. No attempt has been made to "handpick" the firms analyzed or to otherwise produce a biased result.

4/ See Moody's Industrial Manual, 1980, 1981 and 1982 editions. As with the preparation of Schedule A, we have exercised no bias in the selection of companies to be analyzed. If DOE can furnish us with financial data on companies listed on Schedule A but not listed on Schedule B, we would welcome the opportunity to review and discuss such data.

Senator EAGLETON. One final question, if I may, and I think I may be through.

The *Anchor* case was $16 million with interest. It was $7.4 million base, and then the accumulated interest. You do remember the $7.4 million base.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. The record will show that it was $16 million. They offered you in that first meeting what?

Mr. JACKSON. I believe that it was from $50,000 up to $500,000.

Senator EAGLETON. They started at $50,000 and $50,000 as a percent of $16 million is one-third of one penny on the dollar.

Mr. JACKSON. Roughly, yes.

Senator EAGLETON. So their first offer of settlement was one-third of a penny on the dollar.

Mr. JACKSON. Yes.

Senator EAGLETON. You were in Kansas City, did you ever settle a case as low as one-third of a penny on a dollar?

Mr. JACKSON. No, sir.

Senator EAGLETON. What was the typical settlement range as a percent of the amount being sought?

Mr. JACKSON. I tried to go at a minimum 60 percent of all winnable issues, or more.

Senator EAGLETON. Sixty percent——

Mr. JACKSON. Of all the winnable issues.

Senator EAGLETON. Of all the what issues?

Mr. JACKSON. That we were on solid ground, that we felt we would win.

Senator EAGLETON. You would study the case and all the winnable issues.

Mr. JACKSON. Yes.

Senator EAGLETON. Would you sometimes settle out the interest a bit?

Mr. JACKSON. No.

Senator EAGLETON. Had you made a judgment in your own mind as to the winnable issues in the *Anchor* case?

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Had you been to compute that judgment of winnable issues to a dollar settlement, and then multiply it by 60 percent?

Mr. JACKSON. Yes, I would have had Bob do that.

Senator EAGLETON. Did Wehrle-Einhorn ever give you a figure that the thought was fair and appropriate in the case?

Mr. JACKSON. I think that we came down to the lowest of $2 million being 60 percent of the winnable issues of the $7.4 million.

Senator EAGLETON. The lowest, as far as you were concerned, as you viewed the case, you and Wehrle-Einhorn being the most intimately knowledgeable in the case, $2 million was your rock-bottom figure.

Mr. JACKSON. Yes.

Senator EAGLETON. Good old Coty offered you $50,000 for openers, and then came back with $500,000 at the later meeting.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. So you were on the way to work on a settlement that was getting up to $500,000, and then the case was yanked to Washington because Washington was going to decide if and when, if ever, to publish it in the Federal Register.

Mr. JACKSON. Yes, sir.

Senator, the $2 million, I am kind of remembering my own notes, which were showed to me in the Dingell committee, it could have been different then, but I think that it was $2 million.

Senator EAGLETON. That came from your notes as shown in the Dingell committee.

Mr. JACKSON. Yes.

Senator EAGLETON. Those were your notes.

Mr. JACKSON. Those are the notes that are in the Anchor file.

Senator EAGLETON. It was $2 million in your handwriting or Wehrle-Einhorn's?

Mr. JACKSON. I think that it was probably my own scribbling on a yellow piece of paper.

Senator EAGLETON. That is all I have, Mr. Chairman.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Noting further.

Chairman ROTH. Senator Gore.

Senator GORE. One question, Mr. Chairman, and I will make it very brief.

Mr. Jackson, Mr. Wehrle-Einhorn, in his interview with the staff, said that it was a subjective judgment, but there was something unusual about the settlement discussions with the Anchor officials, in fact that the Anchor officials "seemed overly confident that they would succeed in the Nation's Capital when they went to Washington."

Did you get a similar feeling during those discussions?

Mr. JACKSON. They proceeded with their negotiations in a manner which was different than I had ever encountered before.

Senator GORE. How was it different?

Mr. JACKSON. Well, at the first meeting, Dunagan was on the verge of becoming emotional that I was outrageously treating his client unfairly. This was not my only case, and the week before I was with someone else. The second or the third meeting they came in with some kind of list from a Houston newspaper of percentage settlements with the oil companies. To me it was like apples and oranges, like each case stands on its own, plus the list, on its face, was totally inaccurate because some of the cases were my cases, and I knew what the figures actually were.

Senator GORE. So it was kind of unusual.

That second meeting was on September 24, 1982, is that correct?

Mr. JACKSON. Yes; when they brought in that list, it may have been the third meeting, I can't tell you for sure.

Senator GORE. You didn't know at that time that just 1 day prior to that, the company officials had had a series of telephone conversations with the No. 2 man at OMB, and that the No. 2 man at OMB had, in turn, contacted the officials in charge of the enforcement program in their behalf. You didn't know that at that time, is that correct?

Mr. JACKSON. No, sir.

They had an attitude in their discussions with us like not taking us for real.

Senator GORE. Not taking you for real.

Mr. **Jackson**. Yes.

Senator **Gore**. Mr. Wehrle-Einhorn also said that he was told by either Landesman or Lorenz something similar to what you were told, that someone was exercising political influence here, but he phrased it a little bit differently. He said that he was told that it was "someone who could hurt us in the budget." Do you remember such a phrase ever being used?

Mr. **Jackson**. No, sir.

Senator **Gore**. Thank you, those are all the questions I have, Mr. Chairman.

Chairman **Roth**. Senator Cochran.

Senator **Cochran**. Mr. Chairman, for the purpose of clarification, let me be sure I understand this date on which the settlement negotiation was actually consummated. This was September 24, according to a note in our file, which represents a meeting between Regional Director David Jackson, that is you, and Coty Dupre, representing Anchor Gasoline Corp. It was at this meeting that they offered to pay $500,000, and you made a counteroffer of $2 million. Is that correct?

Mr. **Jackson**. It had to be the second or the third meeting, and that was the second meeting.

Senator **Cochran**. This was confirmed in a letter that I think Senator Eagleton just put in the file from E.W. Clopton, financial vice president of Anchor, reiterating the $500,000 offer.

Mr. **Jackson**. Yes.

Senator **Cochran**. There were no further negotations between you and the company; is that right?

Mr. **Jackson**. There were three meetings. One of the meetings, they brought in all of the settlement percentages, and one of the meetings they brought in all of their financial data, claiming serious financial hardship, which we looked at and saw that the company was not dire straits or anything.

Senator **Cochran**. This was the last negotiation that you had with the company, is that correct, and that was the final negotiation that took place as far as you know for a settlement of the case.

Mr. **Jackson**. Yes, sir.

Senator **Cochran**. Thank you, Mr. Chairman.

Chairman **Roth**. Mr. Jackson, I have one or two questions I would like to ask at this stage.

You said that you were told, if I recall, that a high Government official had an interest in the case. Is that correct?

Mr. **Jackson**. Yes, words to that effect.

Chairman **Roth**. Words to that effect. Did you know who had high official was at that time?

Mr. **Jackson**. No, sir.

Chairman **Roth**. Did you know what his interest was?

Mr. **Jackson**. No, sir.

Chairman **Roth**. Did you know what the nature of the request had been that was made by this high official?

Mr. **Jackson**. No, sir.

Chairman **Roth**. Senator Eagleton.

Senator **Eagleton**. There were three meetings from the records, and you are correct, Mr. Jackson. The first meeting took place on September 14, which is the PRO date, you issued and handed the

PRO to Dupre and Dunagan. The next meeting took place on September 24, that is the $500,000 offer meeting. Then there was a meeting on October 18 in Kansas City with the same cast of characters, and that totals up to three.

Let me ask you. How were these meetings set up? How did it come to pass that Coty Dupre and Mr. Dunagan would come to your office in Kansas City?

Mr. JACKSON. In this particular case, when Bob finished his work——

Senator EAGLETON. That is Wehrle-Einhorn.

Mr. JACKSON. Wehrle-Einhorn, having the final draft of the PRO, we were ready to go, he would usually come to me, and we would look at our calendars and say, let me contact the company, and try to arrange a meeting. I would say, yes, so-and-so is fine. Then he would go and arrange it.

So he would set up a meeting, and in this case it was arranged to be in Kansas City. Sometimes meetings would be at the firm's headquarters.

Senator EAGLETON. Sometimes what?

Mr. JACKSON. The meetings would be at the firm headquarters.

Senator EAGLETON. But these meetings were all in Kansas City.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. Bob Wehrle-Einhorn would contact someone at Anchor, and agree to a mutually agreeable time on September 14, and September 24 and October 18.

Mr. JACKSON. Yes.

Senator EAGLETON. Do you of your own knowledge know when Bob Wehrle-Einhorn set up the September 24 meeting?

Mr. JACKSON. No. The September 24 meeting could have gone in the reverse way. We could have ended the September 14th meeting telling them that they had 10 days to get back with a realistic offer. They, in turn, sometime prior to the 24th, could have called Bob and said, we will come back on the 24th. I don't know how that was done, but it could have been done that way.

Senator EAGLETON. That is very interesting.

Mr. JACKSON. I don't think Bob, if they would not have called him, I don't think that he would have called them, we would just have gone ahead.

Senator EAGLETON. On September 14, they made you this $50,000 offer.

Mr. JACKSON. Yes.

Senator EAGLETON. Would it be fair to call that minuscule?

Mr. JACKSON. It was ridiculous.

Senator EAGLETON. It would have been likely for you to say, all right, you have 10 days to come back and talk something rational and sensible.

Mr. JACKSON. Yes. As a settlement technique, I would say that I would withhold publishing the Federal Register notice for 10 days if they want to come back with a meaningful settlement offer.

Senator EAGLETON. Ten days from September 14 is September 24.

Mr. JACKSON. Yes, sir.

Senator EAGLETON. So they came back precisely on the 10th day, and the 9th day is the famous day. September 23 is the Joe Wright day, but that we will get to independently.

Chairman ROTH. Mr. Rinzel.

Mr. RINZEL. Mr. Jackson, you have indicated that——

Senator EAGLETON. Excuse me, Senator Roth. I have been on this committee, well, too long, and never in a hearing of the full Governmental Affairs Committee do I recall that counsel has interrogated a witness. I don't know what is the practice before the PSI committee, the Permanent Subcommittee on Investigations, but I do know what the practice is before the full Governmental Affairs Committee, and the practice is that Senators are prepared, they consult with staff as to questions, and what-have-you, and the Senators conduct the examination of witnesses. My memory with respect to that is infallible, I say, in all modesty.

I would object, since that is a time honored, established precedent of the committee, that counsel interrogate the witness. Now, if counsel wants to write out some questions for any Senator to ask, that is certainly within the prerogative.

Chairman ROTH. It has been the practice in the subcommittee, as you well know, to have counsel ask questions. It is not a matter of great moment, and it can be done by a Senator, if the distinguished Senator objects.

Mr. Jackson, have you ever had any discussions with Gordon Harvey about the *Anchor* or *Canal* cases?

Mr. JACKSON. Yes, sir.

Chairman ROTH. What did Harvey tell you?

Mr. JACKSON. When?

Chairman ROTH. Did Gordon Harvey ever talk to you about who the official was?

Mr. JACKSON. Yes, sir.

Chairman ROTH. Who did he say it was?

Mr. JACKSON. Mr. Wright.

Chairman ROTH. When was that statement made to you?

Mr. JACKSON. It would have been in late August, probably September 1984.

Chairman ROTH. Had you ever heard Wright's name prior to that?

Mr. JACKSON. No, sir.

Chairman ROTH. So it was in August or September 1984 that Mr. Wright's name first came to your attention.

Mr. JACKSON. Yes, sir.

Chairman ROTH. Thank you, Mr. Jackson, that is all.

Senator EAGLETON. May the witness be excused, Mr. Chairman?

Chairman ROTH. He is excused.

Mr. JACKSON. Thank you.

[The work papers submitted by Mr. Jackson follows:]

Department of Energy
324 East 11th Street
Kansas City, Missouri 64106-2466

816-374-2092

December 10, 1982

Memorandum For: DAVID H. JACKSON
Director, Kansas City Office
Office of Special Counsel

From: Bob
ROBERT J. WEHRLE-EINHORN
Program Manager
Office of Special Counsel

Subject: Schedule of Anticipated PRO's

This is in response to your request for more specific and current information concerning my PRO cases than was provided in the "Active Case Log" last month. That report showed 15 small refiner or NGL cases scheduled for a PRO in FY83.

Of the 15 cases, two (Vessels and Anchor) have had the PRO issued. My best guess as to the completion dates of the remaining cases is as follows:

Case Name	Final Draft	Issuance
Anchor – Lorenz		9/14/82
Vessels Issued		11/5/82
1 Reapco	1/25/83	2/28/83
2 Texas – Cabot Fuel (TUCO)	1/31/83	2/28/83
3 Eason	2/10/83	3/20/83
4 C.G. – El Paso x	2/20/83	3/10/83
5 Nay – True x	2/28/83	3/31/83
6 Parade	3/31/83	4/25/83
C.G. – Dalco	4/15/83	6/10/83
7 Oneok	4/30/83	5/31/83
8 Suburban	5/31/83	6/30/83
9 Hamilton Bros.	7/15/83	8/31/83
Sauvage – DIS x	7/30/83	8/31/83
Internorth – DIS	8/31/83	9/30/83
Internorth DIS	8/31/83	9/30/83

Letters sent by 12/17 –
True
El Paso
Reapco

Ginther

There is some flexibility in this schedule, which may allow a shortening of the time frame. For example, I understand that the Tulsa Office is near a global settlement with Dalco. However, they have been near a settlement for about six months, and the case may not be settled. In addition, I think there is now a pretty good chance that El Paso will be settled.

On the other hand, the list does not include Vickers, which I submitted some time ago for referral to the Department of Justice. If it is decided instead to issue a PRO for part of the overcharge, that will add a month or two to the schedule.

Finally, in answer to your question whether all PRO's can be completed by March 31, 1983, my response must be negative. At the earliest they can be completed by the end of August, unless cases are given away rather than settled on the basis of their merit.

Crude Producers

~~1. Gear Petroleum~~ – [illegible] 1/10

Small Refiners

3/11

~~1. Anchor Gasoline Corp.~~ PRC – Nat off.

2. Bi-Petro, Inc. × 3/11 2

4 3. ~~Eason Oil Co.~~ 3

4. Hamilton Brothers – Dallas

5. Johnson Oil Co. – Bkpcy

~~6. Lakeside/Crystal Ref.~~ C.O. cannot provide

7. ~~Pester Refining Co.~~

6 ~~8. Total Petroleum Inc.~~

~~9. Vickers Petroleum Inc.~~

NGL's

1. ~~Cabot Fuel Corp.~~ (TUCO) × 3/11

~~2. Dalco Services Inc.~~ CO

~~3. El Paso Natural Gas~~ CO

~~4. Ginther, N.C.~~ CO

10 5. ~~Inter-North Inc.~~

3 6. ~~Inter-North~~ [illegible]

6 7. ~~Oneok Exploration~~
(Okl. Nat Gas, ONG)

~~8. Parade Co.~~

~~9. Resource Extraction (REAPCO)~~

5 10. ~~Sauvage Gas~~

6 11. ~~Surburban Propane Gas~~

3 12. ~~True Oil Co.~~

5 7 6

Est. time

From 4/8 → 10/1 = 25 wks

7 cases$\overline{)25}$ 3 1/2 ea.

8 wks between documents

8$\overline{)25}$ 3 documents

prob. 4 to 5 best

Crude Producers

1. Gear Petroleum

Small Refiners

1. Anchor Gasoline Corp.
2. Bi-Petro, Inc.
3. Eason Oil Co.
4. Hamilton Brothers
5. Johnson Oil Co.
6. Lakeside/Crystal Ref.
7. Pester Refining Co.
8. Total Petroleum Inc.
9. Vickers Petroleum Inc.

NGL's

1. Cabot Fuel Corp. (TUCO)
2. Dalco Services Inc.
3. El Paso Natural Gas
4. Ginther, N.C.
5. Inter-North Inc.
6. Inter-North
7. Oneok Exploration
   (Okl. Nat Gas, ONG)
8. Parade Co.
9. Resource Extraction (REAPCO)
10. Sauvage Gas
11. Surburban Propane Gas
12. True Oil Co.

Product Resellers/Retailers

1. Almarc Oil Co.
2. Apex Oil Co.
3. Blex Oil Co.
4. Century Propane Inc. - C.O.
5. Empire Gas Corp.
6. Englefield Oil Co.
7. Este Oil
8. Inter-City Oil Co.
9. Kunz Oil Co.
10. MacMillan Oil Co.
11. Missouri Terminal Oil
12. Muncie Energy Serv. - C.O.
13. Ozark County Gas Co.
14. Propane Industrial
15. Red Diamond Oil Co.
16. Riverside Oil Co.
17. Site Oil Co. - C.O.
18. Storey Oil Co., Inc.
19. Swifty Oil Co., Inc.
20. Thornton Oil Corp.
21. Tresler Oil Co.
22. Western Petroleum Co.
23. Zaroco, Inc.

roduct Resellers/Retailers

1. Almarc Oil Co.
2. Apex Oil Co.
3. Blex - PRO
4. Empire Gas Corp.
5. Englefield Oil Co.
6. Este Oil
7. Inter-City Oil Co.
8. Kunz Oil Co.
9. Red Diamond Oil Co.
10. Swifty Oil Co. - PRO

SUB.

1. Ozark County Gas Co.
2. Propane Industrial
3. Tresler Oil Co.

C.O.

1. Century Propane Inc.
2. Muncie Energy Serv.
3. Site Oil Co.
4. Thornton Oil Corp.
5. Zaroco, Inc.

Phil

1. Missouri Terminal Oil
2. Riverside Oil Co.
3. Storey Oil Co., Inc.
4. Western Petroleum Co.

Crude Producers

~~1. Gear Petroleum~~ – wd/of 1/10

Small Refiners

~~1. Anchor Gasoline Corp~~.
2. Bi-Petro, Inc. × 3/11
3. Eason Oil Co.
4. Hamilton Brothers
5. Johnson Oil Co.
~~6. Lakeside/Crystal Ref~~.
7. Pester Refining Co.
~~8. Total Petroleum~~ Inc.
~~9. Vickers Petroleum~~ Inc.

NGL's

1. Cabot Fuel Corp. (TUCO) < 3/11
~~2. Dalco Services Inc.~~
3. El Paso Natural Gas CO
~~4. Ginther, N.C.~~
5. Inter-North Inc.
6. Inter-North
7. Oneok Exploration
   (Okl. Nat Gas, ONG)
~~8. Parade Co.~~
~~9. Resource Extraction (REAPCO)~~
10. Sauvage Gas
11. Surburban Propane Gas
12. True Oil Co.

Product Resellers/Retailers

1. Apex Oil Company
2. Blex - PRO
3. Empire Gas Corporation
4. Este Oil C.G.
5. Inter-City Oil Company Admin clo.
6. Kunz Oil Company - PRO
7. Red Diamond Oil Company
8. Swifty Oil Company - PRO by 4/1

SUBPOENAS

1. Ozark County Gas Company
2. Propane Industrial
3. Tresler Oil Company
4. Englefield - Admin Clo.

CONSENT ORDERS

1. Almarc Oil Company
2. Century Propane, Inc.
3. Thornton Oil Corporation

Phil

1. Missouri Terminal Oil Pro Issud
2. Riverside Oil Company
3. Storey Oil Company, Inc. Pro Issud
4. Western Petroleum Company

3

Crude Producers

~~1. Gear Petroleum~~ – w/of 1/10

Small Refiners

~~1. Anchor Gasoline Corp.~~ PRO– Nat off.

2. Bi-Petro, Inc. × 3/11

4 3. ~~Eason Oil Co.~~

4. Hamilton Brothers — Dallas

5. Johnson Oil Co. — Bkpcy

~~6. Lakeside/Crystal Ref.~~ C.O. comment period

7. Pester Refining Co.

6 ~~8. Total Petroleum Inc.~~

~~9. Vickers Petroleum Inc.~~

NGL's

1. Cabot Fuel Corp. (TUCO) × 3/11

~~2. Dalco Services Inc.~~ CO

~~3 El Paso Natural Gas~~ CO

~~4. Ginther, N.C.~~ CO

10 5. Inter-North Inc.

6. Inter-North Su

6 7. Oneok Exploration
(Okl. Nat Gas, ONG)

~~8. Parade Co.~~

~~9. Resource Extraction (REAPCO)~~

5 10. Sauvage Gas

6 11. Surburban Propane Gas

3 12. True Oil Co.

Product Resellers/Retailers

1. Apex Oil Company
2. Blex - PRO
3. Empire Gas Corporation
4. Este Oil
5. Inter-City Oil Company
6. Kunz Oil Company - PRO
7. Red Diamond Oil Company
8. Swifty Oil Company - PRO

SUBPOENAS

1. Ozark County Gas Company
2. Propane Industrial
3. Tresler Oil Company
4. Englefield

CONSENT ORDERS

1. Almarc Oil Company
2. Century Propane, Inc.
3. Thornton Oil Corporation

Phil

1. Missouri Terminal Oil
2. Riverside Oil Company
3. Storey Oil Company, Inc.
4. Western Petroleum Company

Crude Producers

— 1. ~~Gear Petroleum~~ — u/of 1/10 Issued

Small Refiners

— 1. Anchor Gasoline Corp. D.C.
2. ~~Bi-Petro, Inc.~~ Issued
3. Eason Oil Co.
4. Hamilton Brothers Dallas 2
5. Johnson Oil Co. BKpyc
— 6. Lakeside/Crystal Ref. Finalizing C.O.
7. Pester Refining Co.
8. Total Petroleum Inc. } Nat office
9. Vickers Petroleum Inc.

NGL's

1. ~~Cabot Fuel Corp. (TUCO)~~ — PRO Issued ~~Global~~ 4/8/83
— 2. Dalco Services Inc. Tulsa - Global 6
3. El Paso Natural Gas CO to firm
— 4. ~~Ginther, N.C.~~ CO signed
5. Inter-North Inc.
6. Inter-North
7. Oneok Exploration
   (Okl. Nat Gas, ONG)
8. ~~Parade~~ Co. PRO Issued 2/11/83
— 9. ~~Resource Extraction (REAPCO)~~ PRO Issued 1/21/83
10. Sauvage Gas
11. Surburban Propane Gas
12. True Oil Co.

4/11

Product Resellers/Retailers

1. Apex Oil Company meeting on books 4/22
2. Blex - PRO
3. Empire Gas Corporation
4. Este Oil CO to Firm
5. ~~Inter City Oil Company~~ Admin. close
6. Kunz Oil Company - PRO
7. Red Diamond Oil Company meeting 4/14
8. Swifty Oil Company - ~~PRO~~ CO

SUBPOENAS

1. Ozark County Gas Company
2. Propane Industrial
3. Tresler Oil Company
4. ~~Englefield~~ - Admin close

CONSENT ORDERS

1. Almarc Oil Company
2. ~~Century Propane, Inc.~~ Signed
3. ~~Thornton Oil Corporation~~ Signed

Phil

1. Missouri Terminal Oil TO Issue wk of 4/11
2. Riverside Oil Company
3. Storey Oil Company, Inc. Issued PRO 4/8
4. Western Petroleum Company

Working:

* 7 cases:
  4 PRO
  3 meetings

* 3 subs.

3 CO in progress

19 cases on list

7 working
3 subs.
3 CO in progress
2 Admin close
2 CO signed
2 PRO Issued

W-E 5/12/83
lwe

Estimate of Legal Analysis Time Needed

Eason	4 weeks
Suburban	7
Internorth (NGL)	15
Internorth (heating oil)	3
Sawvage	7
ONG	6
	42 weeks *

Estimate of Auditor Time Needed

	Eason	2 weeks
(1)	Suburban	3 - 10 weeks
(2)	Internorth (NGL)	25 - 50 weeks
	Internorth (heating oil)	1 week
	Sawvage	3 weeks
(3)	ONG	2 - 6 weeks
		36 - 72 weeks

Notes: (1) Depends on whether firm persuades us on class of purchaser issue

(2) Depends on state of certain records to be requested in the next few weeks

(3) Depends on legal analysis of whether one issue affects another

* Includes drafting documents, legal research and analysis, and directing auditor(s).

Chairman ROTH. Our next witness is Mr. John K. Crowell.

Mr. Crowell, will you raise your right hand? Do you swear that the testimony you will give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CROWELL. I do.

TESTIMONY OF JOHN K. CROWELL, MANAGER, LITIGATION AND COMPUTER SUPPORT, DALLAS ERA FIELD OFFICE

Chairman ROTH. Thank you, Mr. Crowell. Please be seated.

You are, it is my understanding, currently the manager of litigation and computer support in the Dallas ERA field office; is that correct?

Mr. CROWELL. That is correct.

Chairman ROTH. You have been with the Department of Energy since 1974?

Mr. CROWELL. Yes, and no. I took a 1-year and 10-week vacation in-between early on.

Chairman ROTH. When did you first do a computer run on the *Anchor* case, and as part of the answer tell us generally what your duties entail?

Mr. CROWELL. My duties are to input the company data into a computer program which I designed that turns costs and increased costs into regulatory overcharges. I was first involved in the *Anchor* case in late 1981 when they had an NGL case that we did an interest calculation on. Subsequent to that, I was asked in October 1982 to generate an overcharge run for Anchor-Canal by Bob Wehrle-Einhorn.

Chairman ROTH. Do review your testimony as to what you did in 1981 and 1982.

Mr. CROWELL. Early on, I designed the programs that are currently in use by DOE for calculating—using the increased costs of an oil company—regulatory overcharges. In 1981, we had just finished an interest calculation model. The Kansas City team had prepared an audit of NGL overcharges, and they entered those overcharges into the computer and it generated the interest to be applied to those overcharges. That was the $7.4 million that you were referred to earlier.

I didn't do any further work on that company until October 1982, when Bob Wehrle-Einhorn asked me to generate an overcharge run for Anchor-Canal, which we did at that time, and it was about $11 million.

Chairman ROTH. Did you do a base run on the company for the Department of Energy?

Mr. CROWELL. Yes, sir; that is the one that was created early. What happens is that an oil company is required to file with the Department a form called the FEO-96, and on that form is computation for crude costs, purchased product costs, nonproduct costs, recoveries, and some form of calculating an increment that they can increase prices each month for each of the products covered by our regulations.

The base run, or what we call the base run, the Canal base, would have been merely a regurgitation of the information provided to our audit teams on those forms by Anchor.

Chairman **Roth**. This run was noted in your record as Canal-0.

Mr. **Crowell**. That is right, Canal-0, that was our normal nomenclature for the base case.

Chairman **Roth**. Although you referred to it as Canal-0, didn't it actually involve the *Anchor* case?

Mr. **Crowell**. To me, Anchor and Canal are one and the same. We didn't do work involving entitlements, and we knew that Canal Refining and Anchor were one and the same as far as maintaining their books for gasoline resale, or the sale of gasoline and other covered products. On our books, we call it Anchor-Canal, and that may be a little misleading to you because you have separated Anchor and Canal.

Chairman **Roth**. They were separate corporations.

Mr. **Crowell**. I wouldn't have known that.

Chairman **Roth**. Mr. Crowell, when you previously testified before the House subcommittee, you indicated that in November 1982, you ran a computer calculation entitled Canal-2, which showed $11.4 million in overcharges, and that the request for the computer run was made from the Kansas City office. Do you recall who made that request?

Mr. **Crowell**. Yes, sir; that was Bob Wehrle-Einhorn.

Chairman **Roth**. Did Mr. Lorenz later request that you look at the *Anchor* case and recalculate the figures on reallocation, recovery, and nonproduct costs?

Mr. **Crowell**. Yes, sir; that is correct.

Chairman **Roth**. When was that?

Mr. **Crowell**. That would have been in November 1982, when I was in a meeting. I had a meeting with Milton Lorenz and Mr. Dunagan in Milt's office here in Washington, and it was in the same period that I created the Canal-2 run.

Chairman **Roth**. Going back to this calculation, did you then contact the Kansas City office and obtain additional information in order to run these calculations?

Mr. **Crowell**. Yes, sir, I did.

Chairman **Roth**. With whom did you speak?

Mr. **Crowell**. What I did was have one of the members of my staff call the Kansas City office to get the needed information. The meeting that I was referring to previously with Mr. Dunagan and Mr. Lorenz was a meeting when I took a look at the Canal-2 run to see if there were any deficiencies. Just by glancing at the computer data, you could see there were no nonproduct costs, the recoveries were erratic, and there were no reallocations.

So at that time, I indicated to Milt and to Mr. Dunagan that we would need additional information in order to get the data in the proper perspective, so that we could get a good handle on the overcharges.

I went back to Dallas, and I asked my staff, either Bonnie Wentworth or Dennis Thompson who called someone in Kansas City to get the noncredit numbers that we needed so desperately, and they were returned several numbers over the telephone, which were recorded on the comupter data base, and we created a new run.

Chairman **Roth**. Do you have any documents here which would show where these figures came from?

Mr. **Crowell**. No, sir, I don't.

Chairman ROTH. What were your findings?

Mr. CROWELL. The computer run generated new Canal-2, and it showed about $80,000 in overcharges.

Chairman ROTH. Is that virtually zero liability?

Mr. CROWELL. Yes.

Chairman ROTH. Do you have any documents to show the results of the computer run?

Mr. CROWELL. I recreated that run when the Wall Street Journal and the reporters came by, and everybody got excited about where the computer run was. We looked for it through the files, and we did find the workpapers from the Kansas City files that had the nonproduct costs in it, and we recreated the run, and those are the same figures that I recall. I recall doing that.

Chairman ROTH. These are the data?

Mr. CROWELL. Yes, sir, they are.

Chairman ROTH. Would you identify these, so that we could put them in the record? [1]

Mr. CROWELL. What I have here are workpapers that indicate the nonproduct costs for the period May 1973 through and including December 1976, and the sum total is $20 million.

Chairman ROTH. Where did you obtain those?

Mr. CROWELL. They were taken from workpaper file from the boxes returned from Kansas City to Dallas when they closed down the Kansas City office. There are several workpapers in there of that nature.

Chairman ROTH. These figures serve as the basis for your January 1983 run.

Mr. CROWELL. Yes, sir, they do.

Chairman ROTH. Who did you advise of these results?

Mr. CROWELL. I returned them to Milt and I told him that we had a near zero case. We were involved in some other cases, and I was quite hectic, and that was the end of it until June 1983, when I received a call from Avrom checking on the status of the same case. At that time, I advised him of the same thing that I had earlier with Milt that we had a near zero case, and it was my recommendation that we go no further.

Chairman ROTH. Why did you not await the submission of the company figures promised by Dunagan before doing the run?

Mr. CROWELL. We didn't have this information in November 1982. As the record will show, that submission was given to us in May 1983, 6 months later.

Chairman ROTH. But this rerun shows near zero liability, is that correct?

Mr. CROWELL. Yes, $80,000.

Chairman ROTH. You indicated in your testimony before the House subcommittee that your office was unable to locate the original papers and the original records for the *Anchor* case. You also testified that you had begun reconstructing these records. Is it correct that the reconstruction has been completed or not?

---

[1] The workpapers referred to have been retained in the committee files.

Mr. CROWELL. Yes, the reconstruction is the one that you have in the file now for March or April 1985, this year, I guess it was May 1985, when we recreated this run on the same data.

Chairman ROTH. What are your current findings on liability in the *Anchor* case?

Mr. CROWELL. The current findings I don't have a number on that yet. We are still in the process of auditing the company.

Chairman ROTH. Were you ever instructed by anyone at the Department of Energy to give favorble consideration to Anchor when calculating the company's liability?

Mr. CROWELL. Absolutely not.

Chairman ROTH. Senator Eagleton.

Senator EAGLETON. By the way, Senator, are you offering what you have referred to as the recreated run?

Chairman ROTH. Yes.

Senator EAGLETON. I have no objection that it be in evidence, but we will examine it quite carefully.

Senator RUDMAN. I want to make sure that I understand this.

Senator EAGLETON. I don't yield. I will clarify by if for you.

Senator RUDMAN. I think what we are identifying, I don't think that that is the recreation run.

Senator EAGLETON. It is the data for the recreated run.

Mr. CROWELL. This is contemporaneous data from some time prior to October 1982.

Senator EAGLETON. What date?

Mr. CROWELL. I have no idea. It comes from workpapers that were shipped from Kansas City.

Senator EAGLETON. They are undated.

Senator RUDMAN. I just think that we ought to identify the exhibit correctly, that is my only problem.

Senator EAGLETON. It is undated data and unsigned. Did you venture a judgment to the staff as to the nature of the handwriting on the coversheet and ensuing sheets?

Mr. CROWELL. Yes, in a prior hearing.

Senator EAGLETON. What did you venture?

Mr. CROWELL. That it was created by a left-handed female, I believe that was my quote.

Senator EAGLETON. It was created by a left-handed female auditor. Out of what office did that data come?

Mr. CROWELL. I have no idea.

Senator EAGLETON. Where might it have come from if it pertains to Anchor-Canal?

Mr. CROWELL. It would have been either Tulsa, OK, or Kansas City. That is where the files came from.

Senator EAGLETON. How many left-handed female auditors are there in the offices, or were at any time from calendar 1981 through 1985, who were left-handed female auditors in this office?

Mr. CROWELL. Sir, you are asking the wrong person, I don't know.

Senator EAGLETON. What is your title?

Mr. CROWELL. I am currently the manager of the computer and litigation support.

Senator EAGLETON. Who runs audits?

Mr. CROWELL. At that time, there were audit managers for each location.

Senator EAGLETON. Did you ever seek to find out—these are your words—who this left-handed female auditor was who put these figures on the sheet?

Mr. CROWELL. No, sir.

Senator EAGLETON. Would it be fair to say that there are not all that many left-handed female auditors floating around?

Mr. CROWELL. That I couldn't guess.

Senator EAGLETON. Now, the interesting thing that I don't think Senator Rudman got, and this is why I want to clarify it, this reaction took place in 1985?

Mr. CROWELL. In 1985.

Senator EAGLETON. After the Wall Street Journal article?

Mr. CROWELL. That is correct.

Senator EAGLETON. When it hit the fan.

Mr. CROWELL. Yes, sir.

Senator EAGLETON. You had to find something to back up the $80,000 finding.

Mr. CROWELL. I wouldn't quite put it that way.

Senator EAGLETON. Who instructed you to do this magnificent recreation?

Mr. CROWELL. No one.

Senator EAGLETON. But you read the article.

Mr. CROWELL. No, sir.

Senator EAGLETON. You never read the article?

Mr. CROWELL. No, sir.

Senator EAGLETON. Did you hear about it?

Mr. CROWELL. I heard about it.

Senator EAGLETON. Who did you hear it from? Who told you about it?

Mr. CROWELL. Ben Lemos, he gets copies of the Wall Street Journal.

Senator EAGLETON. Where do you operate out of?

Mr. CROWELL. Dallas.

Senator EAGLETON. Do you ever come to Washington?

Mr. CROWELL. At that time, quite frequently, but recently no.

Senator EAGLETON. Do you know such people as Lorenz, Landesman, and Hanzlik, did you ever encounter those guys?

Mr. CROWELL. Yes.

Senator EAGLETON. You heard about the article, but you never bothered to read it. No one mailed you a copy.

Mr. CROWELL. No, sir.

Senator EAGLETON. No Xerox machines around there to Xerox the article.

Mr. CROWELL. We have Xerox machines, but nobody gave me a copy.

Senator EAGLETON. Nobody gave you a copy, and you just heard about it.

Mr. CROWELL. Right.

Senator EAGLETON. They are checking Anchor-Canal, ooops!

Mr. CROWELL. I had already been contacted by a reporter before that.

Senator EAGLETON. What paper?

Mr. CROWELL. I don't know. He didn't disclose that.

Senator EAGLETON. You don't even ask who the reporters are?

Mr. CROWELL. No, sir; because I didn't answer any of his questions.

Senator EAGLETON. You didn't. You refused to answer.

Mr. CROWELL. Yes.

Senator EAGLETON. Why did you refuse to answer?

Mr. CROWELL. Because I don't discuss cases with people over the telephone.

Senator EAGLETON. Somebody over the telephone said, I am a reporter, and I am looking in Anchor-Canal, bang, you hang up?

Mr. CROWELL. I told him that I was not going to discuss the information that they needed, to call Ben Lemos or Milt Lorenz.

Senator EAGLETON. That triggered something in your mind. Did it trigger in your mind that you had an $80,000 figure on a $34 million case if you put Anchor and Canal together?

Mr. CROWELL. No, sir; that didn't come up.

Senator EAGLETON. You have Canal-1 and Canal-2, but it is basically Anchor, and Anchor is a $16 million case. Did you have a flash of genius that a $16 million case on your run had become an $80,000 case?

Mr. CROWELL. No, sir.

Senator EAGLETON. Did you look for all the material to back up your $80,000 finding?

Mr. CROWELL. No, sir.

Senator EAGLETON. You didn't even look for it?

Mr. CROWELL. No, sir.

Senator EAGLETON. Why did you go through this self-starting, instantaneous recreation if you didn't even bother to look for the case material in the first place? Did you know that it was missing?

Mr. CROWELL. No. I started looking for that information.

Senator EAGLETON. You did start looking for it.

Mr. CROWELL. Yes, sir.

Chairman ROTH. Senator Eagleton, could I just ask that you give an opportunity to the witness to answer the questions.

Senator EAGLETON. He said that he didn't look for it, but now he is saying, I did start looking for it.

Tell us how you started looking for it.

Mr. CROWELL. I was asked about the *Anchor* case because of all the hearings.

Senator EAGLETON. Who asked you?

Mr. CROWELL. Ben Lemos.

Senator EAGLETON. Is he your supervisor?

Mr. CROWELL. Yes, sir.

Senator EAGLETON. Did you say, something smells in the *Anchor* case, or what did he tell you?

Mr. CROWELL. No, sir. The way it normally works in my office, I am in charge of the computer end of the business, I am asked to go and get the computer runs that support the case.

Senator EAGLETON. So he asked you to go get them.

Mr. CROWELL. He asked me to go and get all of the information, all of the computer runs that pertain to Anchor-Canal.

Senator EAGLETON. Why did you say earlier that you didn't look for them?

Mr. CROWELL. I didn't until after the newspaper article.

Senator EAGLETON. That is when you started.

Mr. CROWELL. That is right.

Senator EAGLETON. What did you find?

Mr. CROWELL. Absolutely nothing on that case, but on all the others, I found them.

Senator EAGLETON. On all the other what?

Mr. CROWELL. All the other computer runs. There had been several computer runs.

Senator EAGLETON. On this Anchor-Canal business, you found some other runs.

Mr. CROWELL. That is correct.

Senator EAGLETON. But you didn't find the $80,000 run.

Mr. CROWELL. That is correct.

Senator EAGLETON. What might have happened to that?

Mr. CROWELL. We probably shipped the original out to the requester.

Senator EAGLETON. You didn't keep any copies of it, no notes of it?

Mr. CROWELL. Normally, we do.

Senator EAGLETON. Normally you do.

Mr. CROWELL. Yes, sir.

Senator EAGLETON. What do you normally keep?

Mr. CROWELL. Normally, the procedure is that I am given a set of numbers, by the audit team, in this case, Bob Wehle-Einhorn's group in Kansas City. I never the information into the machine, proof the information, generate an overcharge run, ship the results back to whoever requested the run, store a copy on magnetic tape and store a copy in the file. After 1 year of inactivity on the computer tape, it is erased. That is the normal procedure for Energy Information Administration who runs our facility.

Senator EAGLETON. But there is some other supporting data that is kept, that is not erased normally, isn't there?

Mr. CROWELL. Those are the workpapers that we have right here.

Senator EAGLETON. Recreated.

Mr. CROWELL. No, sir, these are not recreated. These are originals.

Senator EAGLETON. We know not when these papers were made.

Mr. CROWELL. If you would look in the rest of the file, you might find out that there are other papers in there that are dated prior to October 1982.

Senator EAGLETON. Is there any proof that the figures contained in this undated material, unsigned, from a left-handed female accountant, are the figures that you were using when you really did the run in 1983?

Mr. CROWELL. Only from my recollection.

Senator EAGLETON. There is no proof, is there?

Mr. CROWELL. I am in the same boat that Dave Jackson was. We didn't keep memos on everything we did.

Senator EAGLETON. There are in these documents hundreds, perhaps more than thousands of figures, many of them, maybe all, received over the phone according to your earlier testimony.

Mr. CROWELL. That is correct.

Senator EAGLETON. How now in 1985, can you tell us, page after page after page, left-handed pages, left-handed pages, and then we have some straight-handed pages from the computer, how can you say that these are the figures you used back in 1983?

Mr. CROWELL. Well, it is all done by recollection. You remember specific events that are out of the normal. In this case, we had a $16 million case—At that time it was $11 million because we don't add interest. It is an $11 million case, and all of a sudden it goes to zero, and you remember why that happens.

In this instance, we received 20 million dollars' worth of nonproduct costs entered in the machine, and it made a near zero case. This why you remember it.

Senator EAGLETON. I agree with you that you remember, when you take down an $11 million case down to $80,000. You can't tell me that you remember these figures page after page after of these figures.

Mr. CROWELL. What I recall is 20 million dollars' worth of nonproduct costs adjustments, and we are lowering the overcharge case to zero.

Senator EAGLETON. Do you have a lottery in the State of Texas?

Mr. CROWELL. No, sir.

Chairman ROTH. Could the witness please answer the question?

Mr. CROWELL. I am sorry, sir.

Chairman ROTH. I was asking that you be given the opportunity to answer the questions.

Mr. CROWELL. Thank you.

Senator EAGLETON. These figures, whenever they were concocted, by whomever they were concocted, the bottom line is that they were erroneous, weren't they?

Mr. CROWELL. The figures used in the run were erroneous because the 20 million dollars worth represents total nonproduct costs and not increased nonproduct costs. It is a major difference. When you calculate the increased nonproduct costs, the total nonproduct costs that should be entered into the computer is less than $2 million, and not $20 million. That workpaper is also in those files submitted to you.

Senator EAGLETON. Here is your statement at the Dingell hearing, "I have recreated the $20,000, the $67,000, overcharge run which is the near zero case. To get to that point, you had to input the numbers from the schedule erroneously." Do you remember testifying to that?

Mr. CROWELL. That is just what I said now, Senator.

Senator EAGLETON. So whenever these numbers came about, whatever source they came from, you had to input the numbers erroneously.

Mr. CROWELL. I didn't determine that they were erroneous until after examining the data at a later date.

Senator EAGLETON. I will be back.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Thank you, Mr. Chairman.

Mr. Crowell, are you a civil service employee?

Mr. CROWELL. Yes, sir.

Senator RUDMAN. What level GS are you?

Mr. CROWELL. A GS-15.

Senator RUDMAN. You have charge of a computer department which essentially crunches numbers furnished to you.

Mr. CROWELL. That is correct.

Senator RUDMAN. You don't originate any numbers.

Mr. CROWELL. That is correct. We are merely a support organization.

Senator RUDMAN. You don't make recommendations.

Mr. CROWELL. No, sir.

Senator RUDMAN. I think the thing that has to be made clear for the record, which I believe is still unclear, is what you have on the table next to you was not recreated by anybody at any time. Those are the original numbers, right or wrong, and you didn't know anymore than I know sitting here now, but they are copies of the original numbers that were furnished to you by someone in either Tulsa or Kansas City for you to do your normal number crunching through your program. Am I correct?

Senator EAGLETON. That is seriously in dispute, Senator Rudman, and you know that that is in dispute.

Senator RUDMAN. What is not in dispute, Mr. Crowell, is that you didn't create those numbers.

Mr. CROWELL. That is correct.

Senator RUDMAN. Those numbers were furnished to you back contemporaneously with the time that you made the computer run.

Mr. CROWELL. That is correct.

Senator RUDMAN. The numbers were wrong.

Mr. CROWELL. They are.

Senator RUDMAN. You subsequently found out.

Mr. CROWELL. Yes.

Senator RUDMAN. But the numbers themselves which caused you to come up with the erroneous conclusion, the old saying in computers, garbage in and garbage out, the garbage that came in was furnished by one of the offices that sent you that kind of information; am I correct?

Mr. CROWELL. That is correct. That is true in all the cases I prepare.

Senator RUDMAN. What you did out of your own curiosity, evidently, when this whole thing broke, you decided to run those same numbers through your same program to see if you came out with the same result.

Mr. CROWELL. That is correct.

Senator RUDMAN. When you did that, were you aware by that time that there was an error in how those numbers were titled?

Mr. CROWELL. Yes, sir.

Senator RUDMAN. But you wanted to see, knowing that the numbers were wrong, that they represented something other than what the program called for, if they still came out to the $80,000 result.

Mr. CROWELL. That is correct.

Senator RUDMAN. I guess we can say that what is not in dispute is that when you originally did your first run, that was the information you fed into the computer.

Mr. CROWELL. Yes, sir.

Senator RUDMAN. Who would that have come from, by the way, not talking about left-handed secretaries, or whatever.

Mr. **Crowell**. The information should have been supplied by Bob Wehrle-Einhorn. However, he denies ever sending it. Someone on my staff, specifically Bonnie Wentworth or Dennis Thompson, called Kansas City to get these numbers. All the audit files were located in Kansas City at that time. We had no audit files in Dallas at that time. So we had to get the numbers from them.

Senator **Rudman**. I want to just come down to a couple of other points. I think the chairman has touched on this, but we have a conspiracy theory here, and you are kind of caught by a ricochet in the middle of it. I just want to get some facts on the table.

At any time, either in a business relationship, in a social relationship, either person to person, by telephone, or in writing, has anyone ever instructed you to do anything other than what you normally would do in running whatever you run in support of a litigation section?

Mr. **Crowell**. Never.

Senator **Rudman**. Has there been even any inference of that, Mr. Crowell?

Mr. **Crowell**. No, sir.

Senator **Rudman**. Do you know Mr. Wright?

Mr. **Crowell**. No, sir.

Senator **Rudman**. Have you ever met him?

Mr. **Crowell**. No, sir.

Senator **Rudman**. Do you know any of the people that work for his family corporation?

Mr. **Crowell**. No, sir.

Senator **Rudman**. Have you ever talked to any of them?

Mr. **Crowell**. Never—I will take that back. I talked——

Senator **Eagleton**. Yes, take that back, you talked to her lawyer?

Mr. **Crowell**. I met with his lawyer, Mr. Dunagan, and I met Mr. Dupre just recently.

Senator **Rudman**. I see. As far as your role in this entire great scenario, you crunch numbers, and you crunched some that turned out to be wrong through no fault of your own. As a matter of fact, if we took those numbers right now and put them in a computer here in the Capitol, if we had the program available that you have, I assume that if we fed those numbers in, we would come out with an $80,000 liability.

Mr. **Crowell**. You would come out with exactly the same answer.

Senator **Rudman**. Thank you, Mr. Crowell.

Chairman **Roth**. Senator Gore.

Senator **Gore**. Thank you, Mr. Chairman.

I find this very interesting. I, too, have heard the phrase "garbage in and garbge out." I think the applicable phrase here is fix in and fix out. That is essentially what happened with this computer analysis, in my opinion.

To put it into context, the Dallas office was asked by the headquarters office to check the work done by Kansas City. Is that correct?

Mr. **Crowell**. No, sir. The initial request was made by Bob Wehrle-Einhorn to make this initial run. By inference, in the earlier testimony, I had a meeting with Mr. Lorenz and Mr. Dunagan in

October or November 1982, in Milt's office, where I pointed out deficiencies in the run made for Bob Wehrle-Einhorn.

Senator GORE. In October 1982, is that right?

Mr. CROWELL. In October or November.

Senator GORE. I am told that Mr. Wehrle-Einhorn disputes the assertion that he requested this computer analysis. He had a heart attack and could not be here.

Mr. CROWELL. I understand that. By evidence submitted in prior testimony, as you will have seen memos from me to Bob Wehrle indicating that.

Senator GORE. Mr. Wehrle-Einhorn told the committee staff that he had never ever had any of his PRO's analyzed or tested by computer run from another office. He flatly disputes that.

In any event, what was the cause for you, the head of the computer support division, having a meeting with the lawyer for this oil company? How did that come about?

Mr. CROWELL. At that time, I was in Washington, just down the hall, and Mr. Lorenz had Mr. Dunagan in his office.

Senator GORE. Did Mr. Lorenz ask you to come in and meet with the oil company lawyer?

Mr. CROWELL. Yes, sir, he asked me to step into his office and he wanted me to bring the Anchor-Canal run with me.

Senator GORE. Was that unusual?

Mr. CROWELL. No, sir.

Senator GORE. How may other oil company lawyers have you met with and showed them your computer runs in Mr. Lorenz' office?

Mr. CROWELL. Dozens.

Senator GORE. At that meeting, who brought up the extra factor of the nonproduct costs?

Mr. CROWELL. I did. In fact, the meeting was very short, probably less than a minute. I walked in, and we went through the formal handshake and said who is who. I was asked to reference the latest Canal run. As I did that, I was asked to point out what I thought of it, as I usually do. Looking at the run, right there at that meeting, there was no prework done on this, I looked at the run and said, well, it is obvious that there is information that is missing and erratic here.

Senator GORE. You met with the lawyer for a company that is in settlement negotiations with the Department of Energy in an alleged overcharge case, and you told the lawyer for the company, that in your opinion, the evidence being relied upon by the Department of Energy is faulty.

Mr. CROWELL. That is correct.

Senator GORE. That is a hell of a way to go about a negotiation. Did you see anything wrong with that?

Mr. CROWELL. No, sir.

Senator GORE. In fact——

Mr. CROWELL. The whole purpose of negotiation is to put all the facts on the table so that you can make a logical solution.

Senator GORE. This was sort of in keeping with the new era in the Department of Energy when the new team came in in 1981. Their new mission was to be a doormat for the oil industry; to roll over and play dead; to get rid of as many cases as possible; and to reduce the amounts owed down to as close to zero as possible. So it was this type of new open-door policy which let the company lawyers come in and review the computer runs, and make suggestions on how the liability could be reduced.

Did he say that he would send you some figures that you could plug into the computer program?

Mr. CROWELL. The way the meeting proceeded, as I pointed out the deficiencies of no nonprofit costs, erratic recoveries and the absence of reallocation information, he indicated that he would get together the nonproduct cost schedule and mail it to me, because he knew that they were entitled to nonproduct as all companies are, and it was missing, and we should have information somewhere for that.

Senator GORE. Did he thank you for being so helpful?

Mr. CROWELL. No, sir. I turned around and walked out, and that was the end of the meeting.

Senator GORE. Did the lawyer for the company subsequently send you information?

Mr. CROWELL. Yes, sir, 6 months later.

Senator GORE. Before you received the information from the company's lawyer, however, you received exactly the same kind of information the lawyer said he would get to you, and you used it to recalculate the amount that the company owed. Is that right?

Mr. CROWELL. That is correct.

Senator GORE. But you really don't know where that information came from.

Mr. CROWELL. That is not my responsibility. My responsibility is to get the numbers to enter into the machine. The audit team doing the case will supply the information.

Senator GORE. And not to ask questions about where it comes from, right?

Mr. CROWELL. I am not the auditor on the case. I am just a number cruncher.

Senator GORE. I see, fix in and fix out.

Mr. CROWELL. The fix came from Kansas City.

Senator GORE. They dispute that heatedly. They say that they did not send it. No one on their staff sent it. You don't know where it came from.

Who told you that it came from Kansas City?

Mr. CROWELL. My staff members that got the numbers called in by the Kansas City office. Where else would they get the numbers?

Senator GORE. Which staff member handed you the numbers?

Mr. CROWELL. Bonnie Wentworth handed me the computer run when it was finished.

Senator GORE. No, the numbers on nonproduct costs.

Mr. CROWELL. I never saw them other than the comparison which is shown right here, that shows the $20 million difference.

Senator GORE. Wait a minute, the key data was the nonproduct costs data, which you then plugged into the computer program. Where did that data come from?

Mr. CROWELL. Kansas City.

Senator GORE. How do you know that?

Mr. CROWELL. Because my staff told me that it did at the time.

Senator GORE. Kansas City says, as I mentioned earlier, that they did not come from Kansas City.

You found that out later, when the Wall Street Journal article was published. So your testimony is that just on your own initiative, you went back and reran the computer analysis and, found out, lo and behold, tremendous coincidence, that data was wrong, and, therefore, the company's liability really shouldn't have been reduced down near to the zero. Is that correct?

Mr. CROWELL. That is correct.

Senator GORE. That is quite a coincidence.

Mr. CROWELL. Not really when you consider the fact that we had at that time, when I did the first run, were merely number crunchers. All I do is call the audit site, get the numer from the auditors, put the numbers in the machine, and generate a run. Now I am in charge of the files and the audit information for that case. I now have the audit files with me. I look in the files and find out that the data I did receive then is now erroneous because I have the audit papers in front of me which are those submitted in the exhibit right here.

Senator GORE. What were the consequences of your first computer analysis showing that the company's liability was reduced down near zero?

Mr. CROWELL. I can't understand the question.

Senator GORE. Did you make a recommendation based on the results of the computer run?

Mr. CROWELL. Yes, sir, at the time, back in early 1983, I recommended to Milt and later to Avrom that the potential was near zero, and that there would be no sense to make any more adjustments to the case.

Senator GORE. In other words, your recommendation was to drop the case.

Mr. CROWELL. No, sir. It is not my position to drop the case. It was my recommendation not to do any more.

Senator GORE. Did you say that the sum remaining was so small that the case was probably not worth pursuing?

Mr. CROWELL. That is correct.

Senator GORE. Let's just review the facts.

The No. 2 man in OMB, with over half a million dollars of financial interest in the company, calls the top guy in the enforcement division about this case. Immediately afterward, the investigators with principal responsibility for the case are told that a high Government official has a financial interest in it and, therefore, their responsibility is being terminated, and it will be handled upstairs.

Immediately after that, the computer analyst, in another office, is called in for a meeting with the company's lawyer to discuss the computer anaysis that was being used to check up on the work of the investigator who has just lost responsibility for the case.

Shortly after that, after a phone call that is hotly desputed, erroneous numbers are plugged into the computer, and an analysis is produced which shows that the OMB official's company, or the company in which he has such a large interest, all of a sudden—magic presto—owes virutally no money at all. Based upon that, the recommendation goes forward to stop pursuing the case. Fix in and fix out.

I have no further questions.

Senator RUDMAN. Mr. Chairman.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Mr. Chairman, I may not get back here, and we may have Mr. Crowell back. I just want to make an observation. Mr. Crowell is a Government employee. I believe that he is a diligent Government employee. He was obviously given information.

Let me ask for the record, did you make up that information yourself, Mr. Crowell?

Mr. CROWELL. No, sir.

Senator RUDMAN. Do you swear under oath that it was sent to you?

Mr. CROWELL. That is correct.

Senator RUDMAN. You are not sure by whom.

Mr. CROWELL. That is correct.

Senator RUDMAN. But it was sent to you.

Mr. CROWELL. It was sent in boxes. There were 8 or 10 boxes.

Senator RUDMAN. Mr. Crowell is a dedicated Government employee who has been caught in the middle of a mess here, not of his own doing. I want to say, for the record, that there have been more cheap shots taken at this witness than I have seen in a high school hockey game in the State of New Hampshire.

Senator GORE. Mr. Chairman, a point of personal privilege.

What we are dealing with here is a series of very serious allegations against the man who is the chairman of the President's Council on Integrity and the No. 2 man in the most powerful agency in the executive branch of Government.

Some members of the committee, evidently, feel obligated to take up the cudgels and defend the No. 2 man at OMB, the target of this investigation. As one member of this committe, I want to see the truth laid out on the table. I want to see the fact made public. Where there is a lack of integrity, leading to illegal cheating of consumers, followed by a high level coverup, and the person responsible for it remains in one of the powerful positions in the executive branch, I think that the American people want the facts on the table. I don't think they want a coverup, and I think it is perfectly appropriate in a forum of this kind for political allies of the administration to try to undermine the credibility of those witnesses who are providing damaging testimony, and try to rehabilitate those witnesses who are trying to support the officials under attack. I do not think, however, that it is appropriate to characterize tough and pointed questions in an inquiry of this kind as "cheap shots."

Senator RUDMAN. Mr. Chairman, I would like to resond to that, if I may. A point of privilege for 1 minute.

Chairman ROTH. The Chair will let the distinguished Senator speak for 1 minute.

Senator RUDMAN. I share my friend from Tennessee's concern about what Mr. Wright did, and I certainly don't intend to protect him. My comment was directed at the examination of Mr. Crowell, who is obviously a GS-15, a Government employee, who came here and told us what he knows. He didn't fix anything, nor was he asked to fix anything.

We have witnesses this afternoon who probably will bear close questioning, and I am going to join in that. I am going to repeat my statement, I think when people come up here who are Government employees simply furnishing us information because they are custodians of information, we ought to take a little care on how we treat them even though we do hold these somewhat exhalted seats. That was the purpose of my comment. I think that this man is entitled to fair and decent treatment, and in my opinion he didn't get it.

Chairman ROTH. The Chair is going to call for a recess, but before he does so——

Senator EAGLETON. I think we can dispose of this witness in a few minutes, and then take a recess before the next witnesses.

Chairman ROTH. You have further questions?

Senator EAGLETON. Yes, I have some questions, but I will try to do them in a very timely and expeditious way, and we could then release this witness.

Chairman ROTH. Let the Chair make a statement before you proceed, Senator Eagleton.

As I said at the outset, it is the intent of the chairman to give all Senators the opportunity to examine the witnesses in a fair manner. I would urge everyone to contain their comments on the case until the end, and try to proceed in an expeditious manner to get the facts from each of the witnesses. I would hope that we could avoid partisanship on either side, and that we could proceed in a manner that is fair to all concerned.

This is a very, very important matter. I think that it is critically important that Mr. Wright as well as the other witnesses before us be treated in a fair and equitable manner, and I would ask that all Senators proceed accordingly.

With that, I would call upon Senator Eagleton.

Senator EAGLETON. Thank you, Mr. Chairman.

As Senator Roth yielded to Senator Rudman, I will likewise yield 1 minute to Senator Gore.

Senator GORE. I want to pursue this very briefly because I think that my friend from New Hampshire may have misundertood exactly what I was saying when I said, fix in and fix out. You may have also, Mr. Crowell.

I am not saying that you, as a GS-15, are the person principally responsible for fixing this case. I think that Mr. Wright fixed this case, and I think that Mr. Hanzlik cooperated in fixing this case.

What I was seeking to do in my questions to you is to describe exactly how the fix took place. I am not charging that you in your mind knew that the result of plugging in this data from whatever mysterious source it came, would result in accomplishing the end which Mr. Wright and Mr. Hanzlik so desired, no more than I would allege that the computer itself was responsible for fixing the case. But this bureauratic system, like the computer, is capable of producing different results depending upon the data and instructions fed into the bureaucracy.

I am not charging you personally with fixing this case, but I believe that you were part of a bureaucracy and manager of a computer system which received data and instructions which resulted in exactly the phenomenon which I alluded to earlier, fix in and fix out.

I thank my colleague for yielding.

Senator EAGLETON. Thank you, Senator Gore. I think that clarification was useful and it also reflects my point of view as well.

Now, let's see if we can finish with this witness before our luncheon recess.

The meeting in Lorenz's office took place when, again?

Mr. CROWELL. October or November 1982.

Senator EAGLETON. How were you invited to the meeting?

Mr. CROWELL. I was just down the hall in my office, and Mr. Lorenz called me up on the phone and said, "Can you come to my office and bring the Anchor run with you?"

Senator EAGLETON. Bring what with you?

Mr. CROWELL. The Anchor run.

Senator EAGLETON. Then you noticed that there was another person in the office.

Mr. CROWELL. That is correct.

Senator EAGLETON. Who was that person?

Mr. CROWELL. Mr. R.N. Dunagan, the attorney for Anchor-Canal.

Senator EAGLETON. How did the meeting take place, this Lorenz, Dunagan, Crowell meeting?

Mr. CROWELL. My portion was about a minute and a half, or so, very short.

Senator EAGLETON. It was very short, but they were there together before you got there.

Mr. CROWELL. And they were there after I left.

Senator EAGLETON. You were just called in to do your thing with respect to computers.

Mr. CROWELL. That is correct.

Senator EAGLETON. Whatever instructions you got, you got from Lorenz.

Mr. CROWELL. I received no instructions from Lorenz. He asked for my opinion, I told my opinion, Mr. Dunagan said that he would furnish the missing information, and I left. Mr. Lorenz offered no direction at all.

Senator EAGLETON. What Lorenz and Dunagan were discussing before you got there, obviously, you don't know.

Mr. CROWELL. This is correct.

Senator EAGLETON. What they discussed after you left, obviously, you don't know.

Mr. CROWELL. That is also correct.

Senator EAGLETON. I think that we have to clarify one other point.

Were you aware that on November 19, 1984, Congressman Dingell, the chairman of the House Oversight and Investigations Subcommittee, asked the inspector general, Mr. Richards, over at Energy, to conduct an audit of the Department's petroleum pricing violation escrow account and to determine certain procedures for the Economic Regulatory Administration, a plan to follow in connection with collecting money owed to the Government by oil firms which have been shown to be guilty of price control violations. Were you aware of the Dingell directive?

Mr. CROWELL. No, sir.

Senator EAGLETON. Were you aware on November 19 that Energy Inspector General Richards wrote a memo to ERA Administrator Hanzlik in which he announced that as part of the routine duties of the IG Office, they were "planning to conduct a survey of various ERA activities?"

Mr. CROWELL. No, sir.

Senator EAGLETON, You were not aware of that.

The purpose of this survey, this is quoting Richards, "is to gather background information on ERA, its mission, the way its operates, the way it is managed. Since many of ERA's functions are to be reduced in scope and phased out, it is likely that we shall concentrate on the planning which has been done to prepare for a function which will be substantially diminished in size." You are not aware of any of that.

Mr. CROWELL. No, sir.

Senator EAGLETON. That all took place in November 1984, this Inspector General Richards and this Congressman Dingell investigation business.

Why was it that Mr. Lemos called you in? He called you in January 1985?

Mr. CROWELL. That is correct.

Senator EAGLETON. That was before the Wall Street Journal article.

Mr. CROWELL. This is correct.

Senator EAGLETON. But it is after the Dingell investigation is underway, it is after Richards has gotten his investigation underway. When Lemos called you in, did he refer to Dingell's investigation or to Richards'?

Mr. CROWELL. No, sir.

Senator EAGLETON. What did Lemos ask you to do?

Mr. CROWELL. To go pull some files on the latest *Anchor* case and bring them to him.

Senator EAGLETON. To put out Anchor files.

Mr. CROWELL. Yes, sir.

Senator EAGLETON. In November we have Dingell and then Richards. In January Lemos said to pull out the Anchor files.

Mr. CROWELL. Yes, sir.

Senator EAGLETON. What did he tell you to do with them?

Mr. CROWELL. Just to bring them to him so that he could review them.

Senator EAGLETON. Did he ask you later for a new run, a fresh run, or a rerun? How was the next run done?

Mr. CROWELL. I think several months later. I guess that this is when he was going to reissue the Federal Register notice but it is a supposition on my part.

Senator EAGLETON. Lemos?

Mr. CROWELL. Yes, sir.

Senator EAGLETON. Who is he?

Mr. CROWELL. He is my boss.

Senator EAGLETON. What is his title?

Mr. CROWELL. He is the Director of the Dallas ERA office.

Senator EAGLETON. He was going to issue the Anchor Federal Register notice?

Mr. CROWELL. That is my supposition.

Senator EAGLETON. It is your supposition.

Mr. CROWELL. He didn't tell me that, I assumed that.

Senator EAGLETON. He was taking another look at the *Anchor* case.

Mr. CROWELL. That is correct.

Senator EAGLETON. When did you do the next run after Lemos told you?

Mr. CROWELL. I would have to look at the runs.

Senator EAGLETON. Roughly, we won't hold you to it.

Mr. CROWELL. I think in April 1985.

Senator EAGLETON. You did a brand new run. You didn't use these figures.

Mr. CROWELL. No, sir, we didn't, but we did not create a new overcharge run, we ran a new interest calculation run.

Senator EAGLETON. You did a new run. What did that new run show on the Anchor case?

Mr. CROWELL. I don't remember. It was $10 million something overcharges plus interest.

Senator EAGLETON. That is what they owed.

Mr. CROWELL. That is correct.

Senator EAGLETON. So they owed $10 million.

Mr. CROWELL. That was based on the PRO that was already outstanding.

Senator EAGLETON. They owed $10 million plus interest which would go pretty far back.

Mr. CROWELL. All the way back to when the overcharges occurred.

Senator EAGLETON. As far back as the midseventies.

Mr. CROWELL. Specifically from August 1973 on.

Senator EAGLETON. That is a lot of interest. Does it compound?

Mr. CROWELL. After October 1982, it compounds every quarter.

Senator EAGLETON. So it is big money.

Mr. CROWELL. It more than doubles the overcharge.

Senator EAGLETON. So it would be more than double $10 million.

Mr. CROWELL. That is correct.

Senator EAGLETON. Yet, you had earlier an $80,000 on a $16 million case, that is what it was when you did the run, which came out to a third of a cent on a dollar. Would you say, as a professional number cruncher, and a GS-15 number cruncher, that there is one hell of a lot of difference between half a cent $80,000 case, and a more than $20 million case.

Mr. CROWELL. Yes, sir, but you are also comparing litigation to negotiation. There is a big difference there also.

Senator EAGLETON. You ran the numbers both times. You ran them once and you got $80,000.

Mr. CROWELL. But we ran two separate sets. We ran a set for litigation, and a set for negotiation, and there is a big difference.

Senator EAGLETON. One run is $80,000, and one run is $20 million.

When you got the $20 million run, the last one in the spring of this year, did you ever ask Lemos or anybody why the Anchor PRO was not published in the Federal Register?

Mr. CROWELL. No, sir, but I did inform him that the information that he wanted me to run again was still missing information.

Senator EAGLETON. It was missing information.

Mr. CROWELL. It was still using nonproduct costs.

Senator EAGLETON. When you meet with Lorenz or any of these guys, do you ever ask, hey, what about the Anchor PRO, when are we going to publish it in the Federal Register?

Mr. CROWELL. That is not my job.

Senator EAGLETON. I know that it is not your job.

Mr. CROWELL. I am strictly support.

Senator EAGLETON. Do you ever sit down and have coffee? Do you have a coffeeshop over there?

Mr. CROWELL. No, we don't.

Senator EAGLETON. Do you ever sit in Lorenz's office, smoke a cigarette and have a cup of coffee?

Mr. CROWELL. No, sir, I don't smoke.

Senator EAGLETON. You don't smoke.

Mr. CROWELL. No.

Senator EAGLETON. Do you ever sit around with Lorenz anywhere, or stand around with him?

Mr. CROWELL. Only when we are talking business.

Senator EAGLETON. And you never talk business about Anchor, say, hey, Lorenz, when are we going to do something about Anchor.

Mr. CROWELL. I am a support function, and it is not my job to say when are we going to do something. He says, we need this, and I do it.

Senator EAGLETON. I want to reiterate what I think about this witness as Senator Gore did. I don't think this witness is guilty of any criminal offense. I think that he was used. I think he was manipulated. I think that he was a pawn in the whole scheme of things. I think that he was a pawn in the whole scheme of things. They gave him rotten numbers. They had him around crunching rotten numbers.

Coty Dupre, Dunagan, or whoever they could get to pick up rotten numbers, they used him to come out with a silly $80,000 run that he is now embarrassed about. Are you embarrassed about the $80,000 run as a professional?

Mr. CROWELL. Yes, sir. It shouldn't have occurred.

May I also make a comment on that.

Senator EAGLETON. Sure, go ahead.

Mr. CROWELL. With all due respect to your position, and stuff, but what you are supposing is cooperation of a dozen people. Doesn't it strike you as a little unlikely.

Senator EAGLETON. I am going to be here today, Mr. Crowell, stick around, the rest of the witnesses are all the conspirators, I think. We have Lorenz. We have Landesman. We have Hanzlik.

Mr. CROWELL. What about the individual who prepared these?

Senator EAGLETON. I don't know anything about that person. It is undated, unsigned, left handed.

Mr. CROWELL. What about all the files that came from Kansas City.

Senator EAGLETON. They disappeared, you know.

Mr. CROWELL. No, you have copies of all these files now, and there are boxes of them. All those people would be considered conspirators also.

Senator **Eagleton**. What has disappeared is the backup for the phantom run, and you are embarrassed by that, too. It wouldn't happen now, would it?

Mr. **Crowell**. I am embarrassed because this audit is in terrible shape.

Senator **Eagleton**. OK.

Mr. **Crowell**. I am a CPA, and that is why.

Senator **Eagleton**. But the phantom run has disappeared, that is why I think you were used. You were had. It is a shame that they brought you into this, but they had to bring in a number cruncher to back up for their fix routine. So you were used, and you were had. I feel sorry for you.

Chairman **Roth**. I want to thank you for your patience. I must express my concern that the witnesses are not being given an opportunity to answer to questions. You have been very patient. We feel that each Sentaor should have the privilege of pursuing a full line of inquiry, at the same time, it is a very, very important subject, an it behooves all of us to try to handle the matter in such a way that the truth will be out, and not just prejudge the case.

It concerns me when statements are made that are conclusions. I would hope that the committee as a whole would devote themselves to trying to get the facts from the witnesses, rather than using it for their own particular conclusions at this stage. There will be ample opportunity for every Senator to draw any conclusions that he wants when the hearings are completed.

We will be in recess until 2 o'clock.

[Whereupon, at 1 a.m., the committee adjourned, to reconvene at 2 p.m., the same day.]

AFTERNOON SESSION

Chairman **Roth**. The committee will please be in order.

At this time, we call forward William Lynch.

Mr. Lynch, will you please raise your right hand? Do you swear the testimony you will give before this committee will be the truth, the whole truth and nothing by the truth, so help you God?

Mr. **Lynch**. I do.

Chairman **Roth**. Thank you, please be seated.

I understand you have a prepared statement?

TESTIMONY OF WILLIAM LYNCH, SUPERVISORY AUDITOR, OFFICE OF ENFORCEMENT PROGRAMS, DEPARTMENT OF ENERGY

Mr. **Lynch**. Yes, I do. Yes, sir.

Chairman **Roth**. In the form of an affidavit; is that correct?

Mr. **Lynch**. That's correct.

Chairman **Roth**. In the interest of saving time, since we all have that, we will include that as if read, and I will begin my line of questioning.

Mr. Lynch, you have been with the Department of Energy since July 1978; is that correct?

Mr. **Lynch**. That's correct.

Chairman **Roth**. What is your current position?

Mr. **Lynch**. Supervisory auditor.

Chairman ROTH. In June 1981, you were assigned to handle all entitlement audits of small companies in the Midwest; is that correct?

Mr. LYNCH. That's correct, sir.

Chairman ROTH. These companies were required by regulation to report what each month to the Department of Energy?

Mr. LYNCH. The refineries were required to report to DOE on the ERA-49 refiners month by report the type of crude oil they processed, the barrels of crude they processed, the price that they paid for each barrel of crude oil, and the runs distilled.

Chairman ROTH. Did you subsequently become involved in an entitlement audit of the Canal Refining Co.?

Mr. LYNCH. Yes, sir, in June 1981.

Chairman ROTH. What was your role in this audit?

Mr. LYNCH. I was the auditor in charge of that case.

Chairman ROTH. When was the audit completed?

Mr. LYNCH. 1981. June, July 1981.

Chairman ROTH. Did the audit find potential liability on the part of Canal?

Mr. LYNCH. Yes, sir.

Chairman ROTH. What was the basis of that alleged liability?

Mr. LYNCH. The firm did not report to ERA on its 49—refiners monthly report—the barrels of controlled crude oil processed by that refinery.

Chairman ROTH. In what amount was the alleged liability?

Mr. LYNCH. In excess of $12 million.

Chairman ROTH. As a result of the audit findings, did you prepare a draft proposed remedial order against Canal?

Mr. LYNCH. Yes, sir, I did.

Chairman ROTH. Is it true that on December 9, 1982, you met with Special Counsel Lorenz to discuss the *Canal* entitlements case?

Mr. LYNCH. That's correct, sir.

Chairman ROTH. Is it usual for you to discuss a case concerning a small company with Mr. Lorenz?

Mr. LYNCH. Yes, sir, because Mr. Lorenz in October 1982 placed me in charge of all entitlement cases for small refineries.

Chairman ROTH. It was a practice?

Mr. LYNCH. Yes.

Chairman ROTH. For you to discuss it with him?

Mr. LYNCH. Yes, sir.

Chairman ROTH. Did Mr. Lorenz give you specific instructions regarding the *Canal* case at this meeting?

Mr. LYNCH. Yes. He told me to call Mr. Robert Wehrle-Einhorn in Kansas City.

Chairman ROTH. Why did he ask you to call Mr. Robert Wehrle-Einhorn?

Mr. LYNCH. Because he was handling the *Anchor Gas Corp.* case in Kansas City.

Chairman ROTH. Was that a related case?

Mr. LYNCH. Yes, sir.

Chairman Roth. Did Mr. Lorenz suggest that the *Canal* entitlements case and *Anchor* case be handled by the Kansas City office, that is, be handled together?

Mr. Lynch. No, sir.

Chairman Roth. Did Mr. Lorenz tell you that the PRO for Canal would be issued?

Mr. Lynch. Repeat the qustion, please?

Chairman Roth. Did Mr. Lorenz tell you that the PRO for Canal would be issued?

Mr. Lynch. It hadn't, it had not been approved by general—by the assistant general counsel.

Chairman Roth. You later spoke with Mr. Wehrle-Einhorn in Kansas City regarding the *Anchor* case, is that correct?

Mr. Lynch. Anchor and Canal both, yes, sir.

Chairman Roth. What did Wehrle-Einhorn tell you?

Mr. Lynch. Let me get part of my notes. Mr. Dingell has all my notes, so I made copies of certain notes.

Chairman Roth. I am sorry, I didn't hear you correctly.

Mr. Lynch. Mr. Dingell has my notes, all original notes, so I made copies of certain of my notes, and Mr. Robert Wehrle-Einhorn, on December 14, 1982, told me four things: First thing, it says, Canal has held up Kansas City Federal Register notice for 2 months; the second thing, Mr. Wehrle-Einhorn told me, I should hold up my PRO for 1 month or until Kansas City Federal Register notice is published; third thing, firm wants to settle for 10 cents on the dollar; and the fourth thing, he had "firm's financial statement which shows they are sound financially."

Chairman Roth. It is my understanding that in your testimony before the House Subcommittee on Oversight and Investigations you testified that you had submitted a draft PRO in the *Canal* entitlements case to Mr. Lorenz, who then requested that additional information be included.

Mr. Lynch. That was in January 1983, I submitted the PRO, which had been approved by general counsel to Mr. Lorenz for his signature.

Chairman Roth. You also testified that it took several months to gather this information, this additional information that Mr. Lorenz requested, and that once it had been obtained, the PRO was rewritten and again submitted to Mr. Lorenz, is that correct?

Mr. Lynch. That is correct, sir. I submitted it again for the second time in December 1983.

Chairman Roth. Did Mr. Lorenz also decline to approve this PRO?

Mr. Lynch. As I recall, no comments, and he didn't sign it at that time.

Chairman Roth. Did he give you any reason as to why he would not sign it?

Mr. Lynch. No, sir.

Chairman Roth. Did Lorenz ask at some point for additional information on the daisy-chain factor?

Mr. Lynch. That was in February 1983 he asked me for additional information on potential daisy-chain factor.

Chairman Roth. Would you explain what a daisy-chain factor is?

Mr. LYNCH. It has to do with crude oil resellers, selling crude oil through several different resellers and it finally gets flipped to uncontrolled crude oil, it goes from $5 a barrel to $20 a barrel to $30 a barrel.

Chairman ROTH. Was there evidence of daisy-chain going on in the *Canal* case?

Mr. LYNCH. Not based on information that I had at that time. I had to go out and dig up additional information—as far as information I had on Canal, no.

Chairman ROTH. But you had to go out and dig additional information up. Did you find evidence of it subsequently?

Mr. LYNCH. Yes, sir, because I knew who the reseller was that was involved with Canal, and I talked with certain people in the field and developed information.

Chairman ROTH. Who was the lawyer assigned to work with you on the entitlements case in March 1984?

Mr. LYNCH. Gloria Sulton.

Chairman ROTH. What was her function?

Mr. LYNCH. She was the Deputy Director in the Solicitor's Office.

Chairman ROTH. Did she eventually approve the draft PRO with or without the additional information that Mr. Lorenz asked you to provide?

Mr. LYNCH. She took it out. If you refer to the daisy-chain, she took out the daisy-chain information.

Chairman ROTH. She withdrew that?

Mr. LYNCH. Yes, sir.

Chairman ROTH. Did Mr. Lorenz then approve the issuance of the Canal PRO?

Mr. LYNCH. Mr. Lorenz never did approve the issuance of the Canal PRO.

Chairman ROTH. He never approved?

Mr. LYNCH. No, sir, he never signed it.

Chairman ROTH. The Canal PRO was ulitmately issued, is that correct?

Mr. LYNCH. Yes, sir, in January 1985, the reorganization, Mr. Landesman was placed in charge of the Office of Enforcement Programs, in which I was placed and Mr. Landesman signed the proposed remedial order issued to Canal Refinery.

Senator EAGLETON. That is Mr. Landesman?

Mr. LYNCH. Yes, sir, Avrom Landesman, right.

Chairman ROTH. Is there any difference between the first PRO that you drafted in 1983 and the final PRO drafted by Miss Sulton, which was issued on April 18, 1985?

Mr. LYNCH. From a legal standpoint, it's identical. The only thing that's changed the interest increased by $2 million.

Chairman ROTH. The only difference was $2 milllion, and that was for what?

Mr. LYNCH. Interest.

Chairman ROTH. Isn't it true that there was also an additional alleged violation of $11.3 million for miscertification of controlled crude oil in the published PRO?

Mr. LYNCH. That was placed in there as an afterthought and to show the discount crude oil that was purchased by Canal, and it has nothing to do with the entitlement case.

Chairman ROTH. Again—it is part of the PRO, is that correct?

Mr. LYNCH. That is correct, yes, sir. But I am talking about the entitlements violation itself, the legal position.

Chairman ROTH. My question is—this is part of the PRO that is published?

Mr. LYNCH. That is correct, sir.

Chairman ROTH. And the first PRO only involved entitlements, is that correct?

Mr. LYNCH. That is correct, sir.

Chairman ROTH. But the second one had a subsidiary claim.

Mr. LYNCH. I don't know.

Chairman ROTH. Or a secondary claim?

Mr. LYNCH. That would be appropriate, secondary claim, Mr. Chairman, yes.

Chairman ROTH. Isn't that a significant difference?

Mr. LYNCH. [No response.]

Chairman ROTH. Let me ask you this question. What is the significance of having this secondary claim?

Mr. LYNCH. You have to ask Miss Sulton for that. I honestly don't know. It could be issued with or without.

Chairman ROTH. But you say you don't know what the significance of this was, yet you said there was no—if I understand you—there was no difference between the first PRO and the one that was issued in 1985. You do agree now that there was a difference in that there was a secondary claim?

Mr. LYNCH. And there was a secondary claim, but it had nothing to do with the entitlement legal theory.

Chairman ROTH. That is not my question. The secondary claim was part of the PRO, is that correct?

Mr. LYNCH. That is correct, sir.

Chairman ROTH. That is a difference?

Mr. LYNCH. Yes, sir.

Chairman ROTH. And you do not know what the significance of that difference is, is that correct?

Mr. LYNCH. From a legal standpoint, no, sir.

Chairman ROTH. From a legal standpoint. Is it true that the facts alleged in the published PRO, that is the one of April 18, 1985, are substantially expanded, and that there were additional facts included in the 1985 PRO over the original one?

Mr. LYNCH. There were some additional filler information. We added the January data. There is some additional filler information, but other than that, it was almost identical to it.

Chairman ROTH. Again, whether you call it filler information or not, it would be additional facts, is that correct?

Mr. LYNCH. That is correct, sir, yes, sir.

Chairman ROTH. Do you feel that Mr. Lorenz' request for additional information on the *Canal* case were unnecessary?

Mr. LYNCH. Yes, sir, I do.

Chairman ROTH. But Gloria Sulton, the attorney assigned to the case, testified at the Dingell hearing that if she were in Lorenz' position she might also have requested the same additional information. Do we just have a disagreement among lawyers?

Mr. LYNCH. I'm a supervisory auditor.

Chairman ROTH. Supervisory auditor, just a disagreement with the lawyers that were handling the case?

Mr. LYNCH. It was my case, and she was providing legal assistance for me, my case.

Chairman ROTH. But she disagreed with you as to the importance of this additional information?

Mr. LYNCH. Yes, she testified to that, yes.

Chairman ROTH. Thank you.

Senator Eagleton.

Senator EAGLETON. We have got a vote.

Chairman ROTH. The committee will be in recess.

[A brief recess was taken.]

Chairman ROTH. The committee will please be in order.

Senator Eagleton.

Senator EAGLETON. Thank you, Mr. Chairman.

On my time, and my time will run out, because I think it is so important to get a complete picture of what happened in the *Canal* case and because Mr. Lynch is the one person who can tell us from A to Z what happened in the *Canal* case, I am going to ask even so far as our time permits, and then on my next go-around, I will complete it, to read the affidavit, the affidavit that the chairman has already placed in the record. I don't think that does enough. It is in the record, of course, but we haven't heard the Canal story. Mr. Lynch can in this affidavit—indeed, he has in this affidavit—told the Canal story.

You have got 10 minutes to start off, Mr. Lynch. Don't unduly rush. We will get you another 10 minutes later on. You have the affidavit with you?

Mr. LYNCH. Oh, you want me to read it now?

Senator EAGLETON. Yes, that is what I am asking you to do.

Chairman ROTH. I would say to my distinguished colleague, the affidavit is included in the record as if read.

Senator EAGLETON. Right.

Chairman ROTH. It is my understanding that the affidavit contains many statements that were already brought forth in the House hearing. I am anxious to proceed as rapidly as possible, and I would hope that the distinguished ranking member would expedite the hearings by proceeding with whatever questions he has.

Senator EAGLETON. I will, Mr. Chairman, and I have just a few questions of Mr. Lynch, but the *Canal* case is the companion case in this hearing along with Anchor. The thrust of the testimony up to now has been heavily on Anchor. Mr. Jackson worked on the *Anchor* case. Canal is an entitlement case, he didn't work on it. Mr. Wehrle-Einhorn worked with Jackson in Kansas City, again on Anchor.

This is the complete story, on Canal, how it was squelshed how it was delayed, and how only, at the last minute, there was the PRO issued.

Chairman ROTH. The reason I raise this problem is that in this affidavit, he quotes, as I understand it, largely from the testimony of others, so that it contains much that is hearsay, and while we don't have a rule up here in this committee on hearsay, the fact is that the purpose of having our witnesses here before us is to obtain what they personally know about the matter. I would point out to the distinguished Senator from Missouri, we can all, including the press, read the affidavit. It is fully available to anyone who wants to see it.

Senator EAGLETON. Mr. Chairman, I know it is, but for instance, he speaks to Mr. Wehrle-Einhorn. Bear in mind, Senator Rudman, a very good lawyer, wants to bring out when Wehrle-Einhorn talked to Mr. Crowell, the previous witness. There is nothing in the Lynch affidavit that is any more egregiously hearsay than what Senator Rudman was eliciting from Mr. Crowell.

It goes in and it tells the complete story. I don't know why it shouldn't be heard. It may tell Mr. Wright—he is here today—it may tell Mr. Wright some things about the *Canal* case that he doesn't know. Have you read the affidavit, Mr. Chairman? What's dangerous about it?

Chairman ROTH. What concerns me is that he appears to be giving a statement as to why he has personal knowledge, when, in fact, much of the statement is based on things that he heard or read.

Senator EAGLETON. All right, Mr. Chairman, we'll do it question by question.

Chairman ROTH. Please proceed.

Senator EAGLETON. I can assure you, it's going to take longer than if we had done it by the affidavit. But we'll do it your way.

Mr. Lynch, have you been in Federal service for 27 years?

Mr. LYNCH. That's correct.

Senator EAGLETON. You have been with the Department of Energy since 1978?

Mr. LYNCH. July 1978, yes, sir.

Senator EAGLETON. In year 1968, did the GAO assign you to the Senate Permanent Subcommittee on Investigations, and on that committee, did you work on inquiries into corrupt and questionable practices in certain Federal poverty programs?

Mr. LYNCH. That is correct.

Senator EAGLETON. Is Canal a subsidiary of Anchor Gasoline Corp.

Mr. LYNCH. Correct.

Senator EAGLETON. Is it your belief that the Government's case against Canal, which now totals about $23 million in alleged entitlements violations and interest, is it your opinion that that case was subjected to unexplained, unnecessary and costly delays in 1983 and 1984?

Mr. LYNCH. I do.

Senator EAGLETON. That is your opinion, unexplained, unnecessary costly delays?

Mr. LYNCH. Yes, sir. Yes, Senator Eagleton.

Senator EAGLETON. Have the opinions that you have formed, have many of those been corroborated by Government documents?

Mr. LYNCH. That's is correct.

Senator EAGLETON. And some by sworn testimony given to the Energy Department officials before the Senate Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce?

Mr. LYNCH. That is correct.

Senator EAGLETON. Is this true: in the *Canal* case, was it alleged that the firm had misreported the statistics on an amount of controlled crude oil that it had refined from July 1980 to December 1980?

Mr. LYNCH. That is correct.

Senator EAGLETON. Was the case assigned to you in June 1981?

Mr. LYNCH. That is correct.

Senator EAGLETON. In the next month, in July, did you write to Canal?

Mr. LYNCH. Yes, sir.

Senator EAGLETON. What did you tell them?

Mr. LYNCH. I told them we had problems with their ERA-49's in——

Senator EAGLETON. With their what?

Mr. LYNCH. With their refiners monthly report, which is called ERA-49's, Refiners Monthly Report for the Period July 1980 through December 1980.

Senator EAGLETON. Did someone from Canal respond or did their outside counsel respond?

Mr. LYNCH. Attorney Dunagan called me in July.

Senator EAGLETON. He called you in July 1981?

Mr. LYNCH. Yes.

Senator EAGLETON. What did he tell you?

Mr. LYNCH. He said he received a letter—he received a letter from Canal and he was familiarizing himself wiith the entitlements process.

Senator EAGLETON. You informed Mr. Dunagan that there had been entitlements violations in the amount of $12 million?

Mr. LYNCH. That is correct.

Senator EAGLETON. In February 1982, specifically, the 8th, did you complete a first draft of the PRO?

Mr. LYNCH. That is correct.

Senator EAGLETON. That is February 1982. Whom did you submit that draft to?

Mr. LYNCH. To a Mr. Robert Heiss, who was the assistant general counsel for enforcement, my legal advisor at that time.

Senator EAGLETON. H-e-i-s-s?

Mr. LYNCH. Yes.

Senator EAGLETON. Did Heiss ask you to make some minor revisions?

Mr. LYNCH. Yes, he did.

Senator EAGLETON. Then did you submit a revised PRO to him in September?

Mr. LYNCH. Yes, sir.

Senator EAGLETON. That is September 1982?

Mr. LYNCH. Correct.

Senator EAGLETON. What did Heiss do in January 1983 with respect to that revised PRO?

Mr. LYNCH. He gave his final concurrence on the approval of the PRO.

Senator EAGLETON. To be technical about, it, called Official Final Concurrence.

Mr. LYNCH. Yes, sir.

Senator EAGLETON. Heiss, once again, is the assistant general counsel for enforcement?

Mr. LYNCH. Correct.

Senator EAGLETON. Then where does it go? In the hierarchy, what happens to it next?

Mr. LYNCH. I prepared a transmittal and sent it to Mr. Lorenz for his signature.

Senator EAGLETON. So Heiss OK'd it, you went up to Lorenz for his signature, and again, that is January 1983?

Mr. LYNCH. Correct, sir.

Senator EAGLETON. What did Lorenz do with it?

Mr. LYNCH. He wouldn't sign it.

Senator EAGLETON. He wouldn't sign it?

Mr. LYNCH. No, sir.

Senator EAGLETON. Over the next 2 years, what did Lorenz do with it?

Mr. LYNCH. He never signed it. He never signed it.

Senator EAGLETON. But then on April 18, 1985, the PRO was issued and in May 1985, it was published in the Federal Register, correct?

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. In December 1982, did Lorenz tell you to call Robert Wehrle-Einhorn?

Mr. LYNCH. Yes, he did.

Senator EAGLETON. Tell us about that. What happened there?

Mr. LYNCH. Mr. Lorenz wanted me to call Wehrle-Einhorn and coordinate issues of the PRO to Canal with the issuance of the Federal Register notice of Anchor Gas Corp.

Senator EAGLETON. So he wanted you to coordinate—you were working on Canal and Canal only?

Mr. LYNCH. Right, yes, sir, because he wanted me to coordinate with Mr. Wehrle-Einhorn the issuance of the Federal Register notice and Anchor Gas, coordination with the issuance of the PRO against Canal Refinery.

Senator EAGLETON. Did you speak to Wehrle-Einhorn in December 1982? December 14, 1982. Do you have notes of that conversation?

Mr. LYNCH. Yes, sir.

Senator EAGLETON. They are here with you?

Mr. LYNCH. Xeroxed copies.

Senator EAGLETON. Do you have the xeroxed copies?

Mr. LYNCH. Yes, sir.

Senator EAGLETON. Did you read from those notes earlier in response to Chairman Roth?

Mr. LYNCH. Correct, sir.

Senator EAGLETON. I bring your attention to No. 1, the second paragraph in your notes. Do you see that, it says 1——

Mr. LYNCH. Yes, sir.

Senator EAGLETON. As clearly as you say into the microphone, read that, what follows that 1——

Mr. LYNCH. Canal has held——

Senator EAGLETON. Wait a minute. We all got to hear you. Canal, slowly.

Mr. LYNCH. Canal has held up Kansas City Federal Register notice for 2 months.

Senator EAGLETON. Let me think about that. Canal has held up Kansas City Federal Register notice for 2 months.

The Government decides when to issue a Federal Register notice, isn't that right, the Energy Department and the ERA folks?

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. Canal, unless they have got a friend in Government, doesn't decide when to issue a Federal Register thing, does it?

Mr. LYNCH. No, sir.

Senator EAGLETON. So if Canal has held up Kansas City Register notice for 2 months, somebody in Government was helping them. They couldn't do it on their own.

Mr. LYNCH. That is correct.

Senator EAGLETON. And you got that from Wehrle-Einhorn on December 14, 1982?

Mr. LYNCH. That is correct, sir.

Chairman ROTH. The Senator's time has expired.

You will have another chance at it.

Senator Cochran.

Senator COCHRAN. Thank you, Mr. Chairman.

Mr. Lynch, to be sure I understand your situation in this hearing, you have not testified as to any influence being brought to bear on you, have you, by anyone in the Government to try to get you to do or not do something that would be improper in the case?

Mr. LYNCH. That is correct, sir.

Senator COCHRAN. Nobody has tried to influence you to do anything in the case on the grounds that some official in the administration had an interest in the case?

Mr. LYNCH. That is correct, sir.

Senator COCHRAN. That is all I have, Mr. Chairman.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Thank you, Mr. Chairman.

I have always considered it was not a good idea to cross examine witnesses when you didn't hear their testimony in chief, so I will pass.

Chairman ROTH. Senator Eagleton.

Senator EAGLETON. Did you ask Wehrle-Einhorn who in Canal was holding it up?

Mr. LYNCH. I'm sure I did, because I'm always interested in what's going on and Mr. Wehrle-Einhorn did not tell me who was holding it up, he did not say any official, not a name or anything like that. But when I wrote to Canal, I'm referring to Canal officials. I have got to write everything out with them, in my own notes, my own mind, and he wouldn't tell me.

Senator EAGLETON. He wouldn't tell you?

Mr. LYNCH. No, sir.

Senator EAGLETON. He didn't mention Coty Dupre?

Mr. LYNCH. No, sir, no, sir.

Senator EAGLETON. Did you know of the name Coty Dupre by that time?

Mr. LYNCH. Oh, sure. I know Coty Dupre because his name was on documents, DOE documents, so I knew the name.

Senator Eagleton. Did you know the name Dunagan by that time?

Mr. Lynch. Oh, yes, of course; July 1981, we started conversations.

Senator Eagleton. Did you know that Canal was owned by an elderly gentleman named Joseph Wright, Sr.?

Mr. Lynch. Not at that time, no.

Senator Eagleton. Later?

Mr. Lynch. Yes, sir.

Senator Eagleton. From September 1982 to April 1985, did you witness a series of events and decisions that you thought were unusual and procedurally questionable?

Mr. Lynch. Yes, sir.

Senator Eagleton. Would you describe those for us?

Mr. Lynch. Well, February 1983, Mr. Lorenz wanted me to get the daisy-chain factor. I put that in the PRO, and submitted that to him in December 1983. He still would not sign the document, and then asked Mr. Landesman, in March 1984, if he could find some other legal counsel, perhaps get the document out, and that's when Gloria Sulton provided legal counsel to me.

She provided the revised PRO Canal Refining which I submitted to Mr. Lorenz in September 1984. And Mr. Lorenz still wouldn't sign the document in September 1984. It was finally submitted in—to Mr. Landesman in April 1985. He signed it.

Senator Eagleton. In 1985. But as far as you were concerned, it was ready to go in September 1982?

Mr. Lynch. I would have to say it was approved by Bob Heiss in January 1983, and at that time, it was ready to go forward to be signed.

Senator Eagleton. In January 1983?

Mr. Lynch. Yes, sir, right.

Senator Eagleton. OK. We mentioned that Mr. Heiss had approved the PRO. Was it also approved by Mr. Anthony Miles?

Mr. Lynch. Yes, sir. At that time, he was in charge of administrative litigation, who supported us before the Office of Hearings and Appeal.

Senator Eagleton. So Heiss approved the PRO and Miles approved the PRO?

Mr. Lynch. That is correct, sir.

Senator Eagleton. Any other lawyers that we know of approve it or work on it and approve it?

Mr. Lynch. That, no one else had worked on it.

Senator Eagleton. Heiss and Miles, but always no from Lorenz?

Now, in January 1983, did Lorenz give a copy of the draft PRO to Mr. Dunagan, the Canal lawyer?

Mr. Lynch. Yes, sir, he did.

Senator Eagleton. Was this unusual?

Mr. Lynch. Yes, sir.

Senator Eagleton. Any other case that you had worked on where you know that this was done?

Mr. Lynch. No, sir.

Senator Eagleton. How many years have you been with Energy?

Mr. Lynch. Since July 1978.

Senator Eagleton. Roughly, how many cases have you worked on during that period?

Mr. Lynch. Several hundred.

Senator Eagleton. Several hundred. And you don't know of any other case where the department, where this guy Lorenz, gave a draft PRO to the lawyer for the other side?

Mr. Lynch. That's correct. Since October 1982, when Mr. Lorenz put me in charge of all entitlement cases, there were 110 cases at that time and I would say during this period of time, when I had direct access to Mr. Landesman and Mr. Lorenz, I knew of no other time they had done this.

Senator Eagleton. As far as you could tell, what was the practice of the Office of the General Counsel insofar as giving draft PRO's to the defendant company?

Mr. Lynch. Never do that.

Senator Eagleton. We are moving to February 17, 1983. Did you ask Lorenz if he wanted something additional from you before giving his okay to the PRO?

Mr. Lynch. Yes, sir, I did.

Senator Eagleton. Tell us about that.

Mr. Lynch. He said at that time he wasn't satisfied with the document and he wanted it to place in the daisy-chain factor.

Senator Eagleton. He wasn't satisfied with it?

Mr. Lynch. Right.

Senator Eagleton. And he wanted this daisy-chain factor?

Mr. Lynch. Yes, sir.

Senator Eagleton. I guess for us unsophisticated in this, and that includes myself, what is this daisy-chain factor?

Mr. Lynch. It has to do with crude oil resellers selling crude to one another and making uncontrolled crude oil, jacking the prices up. They make more money.

Senator Eagleton. Based on your experience and hundreds of cases that you worked on, was the Canal case fundamentally and basically an intitlement violation case?

Mr. Lynch. Yes, sir. It was a simple entitlement violation that one could possibly pursue.

Senator Eagleton. Simplest possible entitlements case that one can possible pursue.

Mr. Lynch. That's correct.

Senator Eagleton. Garden variety entitlement cases?

Mr. Lynch. Exactly.

Senator Eagleton. Lots of them come through ERA?

Mr. Lynch. That is correct.

Senator Eagleton. Nothing unique about the Canal case?

Mr. Lynch. No, no, no.

Senator Eagleton. Except it was unique how Mr. Lorenz handled it?

Mr. Lynch. I would have to say yes.

Senator Eagleton. Unprecedented you said?

Mr. Lynch. Yes, sir.

Senator Eagleton. Unexplained, unnecessary, unprecedented. Then in August 1973, you go back to Lorenz again.

Mr. Lynch. I am sorry?

Senator EAGLETON. In September 1983, I am sorry. You rewrote the PRO and you wrote Heiss?

Mr. LYNCH. Yes, sir.

Senator EAGLETON. You wrote to Heiss. Did Heiss think that daisy-chain stuff was needed?

Mr. LYNCH. I don't believe that he believed it neither, sir.

Senator EAGLETON. Was Heiss an experienced lawyer in these energy matters?

Mr. LYNCH. Yes, sir. He probably had more experience in entitlements than anybody else in the Department of Energy.

Senator EAGLETON. Had what?

Mr. LYNCH. Had more experience in entitlements than anybody else in the Department.

Senator EAGLETON. More experience than anybody else?

Mr. LYNCH. Yes, sir. Because he was assistant general counsel for enforcement, Office of Enforcement, from back in early, middle seventies, about 1975 or 1976, right around there.

Senator EAGLETON. Much earlier on, you indicated Canal was ready to go.

Mr. LYNCH. Correct, sir.

Senator EAGLETON. OK. You couldn't get anywhere with Lorenz, so then you get to Avrom Landesman, right.

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. Did you tell Landesman that you felt Lorenz was holding up the Canal PRO?

Mr. LYNCH. Yes, that he was holding it up, maybe he needed some other legal advice or something like that. I'm just interested in getting the case out.

Senator EAGLETON. You asked Landesman if you could get some other lawyer to help you?

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. And you specifically asked for Gloria Sulton?

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. And she was very experienced in entitlement cases?

Mr. LYNCH. Yes, sir.

Senator EAGLETON. What did Landesman tell you about, would he help you on your request?

Mr. LYNCH. Yes, sir.

Senator EAGLETON. Did he?

Mr. LYNCH. Yes, he did.

Senator EAGLETON. What happened?

Mr. LYNCH. Gloria Sulton started providing legal assistance to me in March 1984, March or April 1984.

Senator EAGLETON. What did she conclude about the daisy-chain stuff and Lorenz had shown up?

Mr. LYNCH. She took it out.

Senator EAGLETON. She took it out, too. So you spent about 6 months looking at daisy-chains, Heiss didn't think it was necessary, Sulton didn't think it was necessary. What did you do next. Did Sulton take it out?

Mr. LYNCH. Yes, sir.

Senator EAGLETON. When Sulton took it out, didn't you then go back to Lorenz?

Mr. LYNCH. Yes, sir. Gloria Sulton approved it in August 1984, and she gave it to me, gave it back to me in August 1984.

Senator EAGLETON. Gave it back to you?

Mr. LYNCH. Yes, sir, right, because it was my case. She provided legal assistance.

Senator EAGLETON. OK, and no daisy chain in it.

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. And than you take it to Lorenz again?

Mr. LYNCH. Yes, sir.

Senator EAGLETON. I don't know what number of visits that is to Lorenz. I have lost count, but what did Lorenz say now?

Mr. LYNCH. What the procedure was, I was to give Mr. Landesman, I gave to Mr. Landesman, the Deputy Director in September 1984 and it laid on his desk 4 or 5 weeks, and then Mr. Landesman told me he gave it to Mr. Lorenz some time in October or early November 1984 for Mr. Lorenz' signature.

Senator EAGLETON. All right. That is October 1984. My time is up again, but I will be back with you, and I will mark down, I will be up with you again in October 1984. Landesman had taken it to Lorenz once again.

Thank you.

Chairman ROTH. Senator Gore.

Senator GORE. Mr. Chairman, I would like to yield my first round minutes to Senator Eagleton so as to not break the continuity of his line of inquiry if that is permissible.

Chairman ROTH. Senator Eagleton?

Senator EAGLETON. Thank you. I appreciate Senator Gore's kindness and the indulgence of the committee.

All right, Landesman takes it to Lorenz. Then what happened and what does Lorenz do then?

Mr. LYNCH. I saw Mr. Lorenz in the suite of offices where the secretaries sit. My office was just down the hall, and I was in there quite often. I asked him two or three times why he did not sign the document and make also an appeal to decide who was right, whether he was right or whether I was wrong in the violation against Canal Refining.

Senator EAGLETON. I do have trouble hearing. You went to Lorenz' office. It is not far away from yours.

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. You asked him two or three times. Mr. Lorenz, you call him by his first name or—well, whatever. Mr. Lorenz or first name, why haven't you signed the Canal PRO?

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. And he tells you what?

Mr. LYNCH. He never responded.

Senator EAGLETON. You are in his office, is he behind his desk?

Mr. LYNCH. I was in where his secretaries were, and he was moving.

Senator EAGLETON. Moving around.

Mr. LYNCH. I just asked him.

Senator EAGLETON. You are going by, "Mr. Lorenz, when are you going to sign the Canal case?"

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. He would keep on moving?

Mr. **Lynch**. That is correct, he went into his office.

Senator **Eagleton**. And this happened?

Mr. **Lynch**. Two or three times. Two or three times.

Senator **Eagleton**. Two or three times?

Mr. **Lynch**. Yes, sir.

Senator **Eagleton**. Did you ever corner him so he couldn't move?

Mr. **Lynch**. I did everything I could.

Senator **Eagleton**. But he kept moving?

Mr. **Lynch**. Yes, sir.

Senator **Eagleton**. Oh, boy.

I interviewed you on May 13, 1985, over the telephone. Do you remember that, Mr. Lynch?

Mr. **Lynch**. Yes, I was kind of shocked.

Senator **Eagleton**. I sounded nice, didn't I?

Mr. **Lynch**. I don't get a call from a Senator very often.

Senator **Eagleton**. Here is what you told me, and I'm not sure that it occurred at this point in time, but you can tell me what the time is. It sounds to me like this is when this occurred, when you are there around the secretary's desk and you are trying to corner Lorenz and he keeps on moving.

"All I needed was Mr. Lorenz to approve it, being the Canal PRO. I went up to the front office. I honestly can't remember if I talked with Mr. Lorenz or his assistant. I asked why they weren't issuing the PRO on the Canal case. I was told that I was being pushy and that I should go away.

"I don't know why it was never issued. It was never signed off by Mr. Lorenz in the front office."

Who told you that, as best you can recall, that you were being pushy and you should go away?

Mr. **Lynch**. That, as about, two or three times about, signing the PRO be issued to Canal. Nora White, an assistant to Mr. Landesman, told me I was too pushy by getting the Canal PRO signed.

Senator **Eagleton**. And go away.

Mr. **Lynch**. And leave her alone.

Senator **Eagleton**. As far as you know, did Heiss, the man you described as a very experienced lawyer in the Department, ever change his mind about the issuance of the PRO on Canal?

Mr. **Lynch**. No, sir.

Senator **Eagleton**. Do you know about a pending action around any of this time we talked about, a pending action against the City Services Corp. wherein several points of entitlements regulations were being contested?

Mr. **Lynch**. I forget exactly when Cities Service, is that what you said?

Senator **Eagleton**. Well, did you ever talk to Gloria Sulton about the Canal PRO and any relationship it might have with a City Service case that was pending?

Mr. **Lynch**. I'm sure I did.

Senator **Eagleton**. We will get into this City Service matter, I think, with other witnesses, but I can establish this through you.

Was there, in the Energy Department, an action against Marion Corp. of Alabama?

Mr. **Lynch**. That is correct, sir.

Senator EAGLETON. And wasn't that case allowed to proceed according to established procedures and with no intervention by Mr. Lorenz?

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. Now, that case moved along, even though Canal was held up?

Mr. LYNCH. Correct, sir.

Senator EAGLETON. What kind of case was the *Marion* case?

Mr. LYNCH. Almost identical to the *Canal* case.

Senator EAGLETON. An entitlement case?

Mr. LYNCH. Yes, sir.

Senator EAGLETON. Almost identical to the——

Mr. LYNCH. Yes, sir.

Senator EAGLETON. So if somebody would allege, well, we have got to hold up the *Canal* case because of something that might come out or come down in the *City Service* case, to be logical about it, they would hold up not only Canal, but they would hold up Marion, wouldn't they?

Mr. LYNCH. I'm sure they would.

I don't know what time City Service got involved in the rigmarole at DOE. I am middle management, and that was Mr. Lorenz' decision.

Senator EAGLETON. And the *Marion* case was published in the Federal Register in August 1984?

Mr. LYNCH. Sounds about right, yes, sir.

Senator EAGLETON. And the principals of the case, Marion and Canal, were pretty much the same? I will yield at this time to Senator Gore. I will have a few more questions later on after Senator Rudman or anyone else.

Senator GORE. Thank you very much.

Let me see if I understand the gist of your testimony. First of all, you are an investigator with the Department of Energy, and in that capacity, you prepared a case against Canal, right?

Mr. LYNCH. As supervisory auditor is the official title.

Senator GORE. Supervisory?

Mr. LYNCH. Auditor.

Senator GORE. And in that capacity, you developed a case in overcharging by Canal?

Mr. LYNCH. In this case, it is not overcharges, it is not purchasing entitlements.

Senator GORE. An entitlement case, which would have obligated them to pay money back to the consumers through the Government?

Mr. LYNCH. That is correct. That is correct, sir.

Senator GORE. All right.

You prepared your case in a normal fashion, and then, I believe, inexplicably, your superior, Mr. Lorenz, refused to put his signature on the case, thereby stopping its progress?

Mr. LYNCH. That's one way of looking at it, yes, sir.

Senator GORE. Well, the case proceeded in a normal fashion up to the point where it would have required Mr. Lorenz' signature in order to go forward, right?

Mr. LYNCH. That is correct, sir. Yes, sir.

Senator GORE. But Mr. Lorenz did not sign it, correct?

Mr. LYNCH. Yes, sir. Correct, sir.

Senator GORE. Why do you think he did not sign it?

Mr. LYNCH. That's a tough question.

Senator GORE. I know your answer, but I'm not sure I want to put you in a tough position of having to give your answer. You are still working in the Department of Energy?

Mr. LYNCH. Hopefully, tomorrow, too. [Laughter.]

Senator GORE. Hopefully to be there tomorrow, too?

When did it first become apparent to you that there was some kind of problem in getting Mr. Lorenz to sign this document?

Mr. LYNCH. That happened in October, November 1984.

Senator GORE. That was when you first, but before then, in January or February 1983, did you become aware of the fact that Mr. Lorenz, in an unprecedented action, gave the lawyer for the Canal Company the draft PRO?

Mr. LYNCH. I did not know that until the—Mr. Dingell's subcommittee held hearings, and I was shown the letter at that time. I did not know that until then, in June 1985, sir.

Senator GORE. I will pursue this in the second round, Mr. Chairman.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Mr. Chairman, I did not hear this witness testify. I don't have any questions. I would only say that it is quite obvious from testimony so far and it is a matter of record, that matter still isn't settled, I believe. There has been an enormous delay. Hearing all of this tangential testimony as to why, I am kind of anxious to talk to Mr. Landesman, Mr. Lorenz, and Mr. Hanzlik.

I would like to hear what they have to say, because there are only two possible explanations, and I don't know which one it is, but I hope we can get to them before all our eyes shut at 11 o'clock tonight.

Chairman ROTH. I share that concern.

Senator EAGLETON. I just have two more questions. Do you want to get rid of mine?

Chairman ROTH. Senator Eagleton.

Senator EAGLETON. The phrase "final official concurrence," what does that mean?

Mr. LYNCH. That means ready for signature.

Senator EAGLETON. Who issues a "final official concurrence?"

Mr. LYNCH. The general counsel.

Senator EAGLETON. That is, again, this Mr. Heiss?

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. And that was January 1983?

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. So from January 1983 through fall 1984, 2 calendar years, virtually, you are chasing after Mr. Lorenz to get him to sign the final PRO, right?

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. Two solid years?

Mr. LYNCH. Yes, sir.

Senator EAGLETON. Toward the end of that chase, you know, when he was walking past you and he wouldn't even answer you, he just gave up giving you any possible excuses to why he wasn't signing it?

Mr. LYNCH. That is correct, sir.

Senator EAGLETON. Senator Gore, I guess.

Chairman ROTH. Senator Gore?

Senator GORE. Just briefly, I think we have gotten most of what we need from this witness. I would concur with the Senator from New Hampshire that we need to get to these other witnesses.

But I also think it is important to lay the groundwork in a matter as complicated as this is. I just have a few brief questions remaining.

I want to clarify in my mind, you prepared a case against Canal, and you secured the general counsel's office approval, final approval, final official concurrence, in January 1983; correct?

Mr. LYNCH. That is correct, sir.

Senator GORE. At that time, with the final concurrence of the general counsel's office, under normal procedures, you would have expected it to go to Lorenz for his signature and have the case go forward; is that accurate?

Mr. LYNCH. That is correct. I submitted it to Mr. Lorenz, I submitted it to him by transmittal for his signature, and Mr. Lorenz gave instructions that I needed to get the PRO's approved by counsel, and then he would sign them.

Senator GORE. Now, this, again, is right in the time frame, just to put this into context, in the fall of 1982 is when Mr. Wright made his contact to Mr. Hanzlik, and when all of these other events started taking place, the investigators in the Anchor case was discharged of responsibility and the computer analysis was done and the meeting with the lawyer was set up, and everything was happening, and right—just a couple of months after that, here you come with this separate case against the wholly owned subsidiary of Anchor, and it comes up through the bureaucracy in the normal fashion until it gets to Mr. Lorenz, who is the deputy to Mr. Hanzlik, and Mr. Lorenz doesn't sign it.

Instead, he delays it, and for more than 2 full years, he comes up with excuse after excuse why it can't go forward, and he requests to you—for additional information about this item and that item and that item, and finally, you came to the conclusion that, and I want to get it from your affidavit, "I was coming to the conclusion that Lorenz would not OK the Canal PRO, no matter what was done to change it."

Mr. LYNCH. That is correct, sir.

Senator GORE. Period, end quote.

More than 2 years later; when a reporter for the Wall Street Journal starts asking questions about this sequence of events, and after the inspector general starts getting involved in it, only then does Mr. Lorenz finally decide that he will give it his signature; is that correct?

Mr. LYNCH. No, sir.

Mr. Lorenz never signed it. Mr. Landesman signed it in April 1985. We had a reorganization, and Mr. Landesman signed it in April 1985.

Senator GORE. All right.

Mr. Lorenz never signed it, but Mr. Hanzlik did, after the questions started getting asked?

One other thing, just briefly. You found out this year that back in January or February 1983, Mr. Lorenz gave Mr. R.N. Dunagan III, lawyer for the Canal Co., a copy of the draft PRO; correct?

Mr. LYNCH. That is correct.

Senator GORE. Is that a common practice, to give the lawyer for a targeted company a copy of the draft PRO?

Mr. LYNCH. No, sir, it's not.

Senator GORE. Would you say it is most unusual?

Mr. LYNCH. Yes, sir.

Senator GORE. Do you know of any other instances where it was done?

Mr. LYNCH. I know of none.

Senator GORE. Why is such an action unwise, in your view?

Mr. LYNCH. The PRO was ready to be signed, and if they had the opportunity to respond to a PRO after the Federal Register notice is published, they have time to respond to the PRO, the statement of the case in the PRO.

The only reason, the only reason you would not put a Federal Register notice out is if you are negotiating a potential settlement with the firm. You would never give the attorney a copy of the draft PRO. That would be unwise.

Senator GORE. Unless you wanted to fix the case?

Mr. LYNCH. That, I have no comment on.

Senator GORE. I just have one or two observations and one question.

You did testify earlier, Mr. Lynch, that you are an auditor, and not an attorney; is that correct?

Mr. LYNCH. That is correct, sir, yes, sir.

Chairman ROTH. So that while you are in a position to compare facts between various cases on the basis of your audit, you are not in a position to comment legally on the similarity or differences between cases?

Mr. LYNCH. That is for our attorneys to do.

Chairman ROTH. As an auditor, how the cases are negotiated? That is not part of your responsibility, is that correct?

Mr. LYNCH. I sat in on negotations. I support negotiations, and within the last week, I sat in with the attorneys, Gloria Sulton, my supervisor, and I sat in on negotiations settlement of cases.

Chairman ROTH. But who conducts the negotiations?

Mr. LYNCH. The attorney does.

Chairman ROTH. Thank you, Mr. Lynch.

Mr. LYNCH. You're welcome, sir.

[Mr. Lynch's affidavit follows:]

AFFIDAVIT

I, William C. Lynch, who lives in Alexandria, Va., make the following statement to Fred Asselin, who has identified himself to me as being with the Senate Permanent Subcommittee on Investigations.

I have been in the federal service for 27 years. I have been with the Energy Department since 1978. From 1962 to 1978, I was an auditor in the U. S. General Accounting Office. For the year 1968, GAO assigned me to the Senate Permanent Subcommittee on Investigations where I worked on inquiries into corrupt and questionable practices in certain Federal poverty programs.

I am giving this statement in connection with my role in the Energy Department's entitlements case against the Canal Refining Company of Tulsa, Oklahoma and Church Point, Louisiana. Canal is a subsidiary of the Anchor Gasoline Corporation of Tulsa.

It is my belief that the government's case against Canal, which now totals about $23 million in alleged entitlements violati and interest, was subjected to unexplained, unnecessary and costly delays in 1983 and 1984.

Much of what I have to say in this statement is corroborat by government documents; or by sworn testimony given by Energy Department officials before the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce on June 24, 1985.

First, I would like to explain what constituted an entitlements violation under the terms of the federal price controls on oil imposed by President Nixon.

The entitlements program was aimed at achieving an equalization of the costs of refining controlled and uncontrolled crude oil. In complying with this program, all refiners were required to report on a monthly

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basis to the Department of Energy certifying to the accuracy of their statistics on the amounts of controlled and uncontrolled crude oil they had processed for the past reporting period. In the Canal case, it was alleged that the firm had misreported the statistics on the amount of controlled crude oil it had refined from July 1980 to December 1980.

Entitlements cases were handled at the national office of the Energy Department. An audit of the Canal Refining Company had been begun on February 16, 1981. The case was assigned to me in June of 1981. In the following month, July, I wrote to Canal to say that violations by the firm had been identified.

Representing Canal in the capacity of outside counsel, R. N. Dunagan III called me on July 22, 1981 to say that he had my letter and that he was in the process of familiarizing himself with the entitlements process. I informed Mr. Dunagan that from July of 1980 to December of 1980 Energy Department information indicated that there had been entitlements violations in the amount of $12 million.

On February 8, 1982, I completed the first draft of the Proposed Remedial Order (PRO) alleging entitlements violations by Canal. I submitted the draft PRO to Robert G. Heiss, then Assistant General Counsel for Enforcement in the General Counsel's Office.

Heiss asked me to make certain minor revisions in the draft PRO. I did as he instructed and resubmitted the draft PRO to him on September 16, 1982. On January 20, 1983, Heiss signed a memorandum to me saying that the Office of General Counsel had given the Canal PRO "official final concurrence." I thought this meant that the PRO would be signed by Milton Lorenz, Director of the Office of the Special Counsel, and would then be issued to Canal.

I was wrong. Lorenz did not sign it. Over the next two years and four months, delay after delay occurred. Finally, on April 18, 1985, the Canal PRO was issued and on May 2, 1985 it was published in the Federal Register.

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On December 9, 1982, Lorenz told me to call Robert Wehrle-Einhorn in the Kansas City ERA office. Wehrle-Einhorn was working on the price control case against Anchor Gasoline, the parent company of Canal. Loren wanted me to coordinate with Wehrle-Einhorn the issuance of the Federal Register Notice on the Anchor case with the issuance of the Canal PRO.

I spoke to Wehrle-Einhorn on December ~~10~~ 14 ML, 1982. Wehrle-Einhorn said that the issuance of the Federal Register Notice in the Anchor case had been held up for two months. Wehrle-Einhorn said that the firm was claiming hardship status and wanted to settle for 10 cents on the dollar.

I had every expectation that the Canal PRO would be issued, promptly and on a procedurally sound basis. But from September of 1982 t April of 1985 I witnessed a series of events and decisions that were unusual and procedurally questionable.

I was not alone in thinking the Canal PRO would be issued in 1982 or early in 1983. Robert Heiss thought so too. wel Chairman Dingell of the House Subcommittee asked Heiss if the "official final concurrence" of the Office of the General Counsel showed that the General's Counsel's Office "was satisfied with t legal theories of the case...." "Yes, it does," Heiss replied. (p. 231)

The PRO I had drafted was also approved by Anthony Miles, the top lawyer in Administrative Litigation. Miles would have handled the administrative litigation that would have resulted from the issuance of the PRO and its publication in the Federal Register.

In Congressman Dingell's hearings, Subcommittee Counsel David B. Finnegan asked Heiss if the Office of General Counsel's "official final concurrence" meant that Anthony Miles had concurred in the PRO. Heiss replied yes. Heiss added:

> There had been a transmission to Mr. Miles for his review of the copy dated September 1982, and we had the benefits of his comments and his agreement on the condition that the affidavit be executed as one of the evidentiary items in the case. (p. 232)

Sometime in January or February of 1983, Milton Lorenz gave R. N. Dunagan III, the Canal lawyer, a copy of the draft PRO. This was an unprecedented action. I knew of no other instance in which the Energy Department gave a copy of a draft PRO to lawyers representing the firm.

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* Testified to this question before [illegible]

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House Subcommittee Counsel Finnegan asked Heiss if it was "the practice of the Office of General Counsel" to give a copy of the draft PRO to the company lawyer. Heiss replied:

> It is not the practice of the Office of General Counsel. It may be a practice of ERA in connection with settlements or in other circumstances, but it wasn't the practice of General Counsel. (pp. 238, 239)

All that stood in the way of the PRO being issued now was concurrence of Lorenz. However, nearly a month went by and Lorenz still had not signed the PRO. So on February 17, 1983, I asked Lorenz if he wanted something additional from me before giving his OK.

Lorenz told me that he was not satisfied with the Canal PRO. Lorenz said he wanted it to contain more information about the so-called "daisy chain" factor. The daisy chain process is one in which several crude oil resellers engage in deceptive transactions in which they change the certification of controlled crude oil to uncontrolled crude oil, thereby enabling them to increase significantly their profits. Canal may have been involved in an alleged daisy chain. However, whether Canal was involved in a daisy chain or not was not important to my case because my case had only to do with alleged entitlements violations. It was another case altogether for the Department of Energy to bring a daisy chain action against the alleged resellers.

I did not agree with Lorenz that this additional data was needed in the Canal PRO. But I followed orders and spent the next six or seven months developing the daisy chain information. Then, in August or September of 1983, I rewrote the PRO for the second time.

Heiss apparently shared my view that the daisy chain information was not needed. Heiss testified before the House Subcommittee that he had thought the additional data unnecessary to the Canal PRO. Finnegan, the House Subcommittee Counsel, asked Heiss why he had not had me insert the daisy chain information into the first Canal PRO which I had written in January of 1983 and which he had approved. Heiss answered as follows:

> Without addressing necessarily any of the

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> specific items, I can say what had been developed in conjunction with Mr. Lynch's office actually, including the affidavits, seemed at the time to provide us with the prima facie case we needed to take to litigation, so it was not thought necessary to have additional information beyond what we had when we did approve the PRO. (pp. 236, 237)

Now that the revised Canal PRO contained the daisy chain information, I resubmitted it to Lorenz. That was in December of 1983. Again, there was delay. I then went to Avrom Landesman, Deputy to Lorenz.

I told Landesman that I felt that Lorenz was holding up the Canal PRO because he believed he needed more legal guidance in the Canal and other entitlements cases. I asked Landesman if he could arrange for another lawyer to help out. I asked specifically for Gloria Sulton, a lawyer who was working at that time in the Solicitor's Office of the Department. I knew that Sulton had had experience in entitlements cases. Landesman told me he would do what he could to bring about my request.

In March of 1984, Sulton was directed to provide legal assistance to me in the Canal and other entitlements cases. But, as she became familiar with the Canal case, Sulton also concluded that the daisy chain information was not necessary to the Canal PRO. Consequently, after I had spent six months developing the daisy chain information for inclusion in the Canal PRO, Sulton took it out.

House Subcommittee Counsel Finnegan asked Sulton:

> ...did you take out of the draft which you provided to Mr. Corrallo the daisy chain information that was included in the draft per Mr. Lorenz's requirements to Mr. Lynch?

Sulton replied yes and went on to testify:

> I didn't feel they were necessary for the legal sufficiency of the case, and I didn't think that they showed the kinds of things we would want such information to show. I didn't feel it was critical.... I was not satisfied that we had all of the information that would have been helpful to try and figure out exactly what direction the chain was moving in. (pp. 256, 257)

Sulton explained that had she been in Lorenz's place she might

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have done precisely what he did; that is, to ask to see the daisy chain information, even though there was a possibility that the information might not be used. Her testimony on this point was:

> If there was no information there for Mr. Lorenz to review, then I think it would probably be appropriate for him to ask that the information be sought. Once we got the information, I did not feel the information was of any probative value with respect to the facts of this case. But I may have, in Mr. Lorenz's position, quite frankly asked for the same information. (p. 257)

I took the opposite position at the time and still do. In the first place, four lawyers had already approved the Canal PRO without the daisy chain information. Those lawyers were Robert Heiss, Anthony Miles, Carl Corrallo and Gloria Sulton herself.

As Corrallo testified to the House Subcommittee:

> I reviewed the first draft, and I thought, as stated, the case was one I thought that presented a good chance of prevailing and that there was no legal impediments including consideration of the Cities interpretation. (p. 245)

Subcommittee Counsel Finnegan asked:

> So the three attorneys involved, Mr. Corrallo, Ms. Sulton and Mr. Heiss were all in agreement the draft in January 1983 could have gone forward at least from a legal standpoint. Is my understanding correct from all of you?

Corrallo replied, "As far as I am concerned, yes." Heiss said yes, as did Sulton. (p. 245)

The entire daisy chain exercise was unnecessary. The lawyers had already concurred in the Canal PRO without this additional data. The daisy chain additions were a great waste of energy and resources, but an even more substantial waste was in time lost. The Energy Department had a Canal PRO ready to be issued in January of 1983. Now a year and a half had elapsed, and the PRO still was not issued. Now it was early summer. The delays caused by Lorenz's hesitation had not ended. More delay lay ahead.

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In June of 1984, Sulton told me that more documents were needed from Canal. I did not agree. But, hoping that with more documents from the firm Lorenz might finally relent and agree to the PRO, I asked Canal for more documents. That request was on June 19, 1984.

Asked by the House Subcommittee if the PRO could have been issued without these additional documents, Sulton testified yes, the PRO could have been issued, in her opinion, but, she added, Lorenz felt otherwise.

She testified:

> To the extent that we had concurred in the issuance of the draft, yes, we believe there was legal merit. There was legally sufficient, but apparently that did not satisfy Mr. Lorenz, who has the authority--or had the authority at the time to sign the PRO; without satisfying his concerns, we do not get a PRO issued. So in view of my getting the case back for review, I felt it important to try and gather any additional information that I thought would be useful in developing the case some more. (pp. 253, 254)

My view at the time was that Lorenz had simply run out of plausible reasons to delay signing the Canal PRO because I and others trying to get it issued were no longer being told by him what he wanted done. Lorenz had stopped giving any guidance as to how the PRO could be improved.

Before the Dingell Subcommittee, I testified that Lorenz was not objecting to anything specific in the Canal PRO. He simply was refusing to sign it. Sulton, Heiss and Corrallo also testified that Lorenz was not telling them what his objections were to the Canal PRO. (pp. 253, 254)

When Sulton told me that she wanted more documents, she was guessing that additional data might satisfy Lorenz and he would at last allow the PRO to be issued. But, for my own part, I was coming to the conclusion that Lorenz would not OK the Canal PRO no matter what was done to change it.

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From September to mid-October of 1984, the Canal PRO lay on the desk of Avrom Landesman, Lorenz's Deputy. Then the PRO was sent in to Lorenz. Landesman told me that he had referred the PRO to Lorenz "for Lorenz's signature."

However, Lorenz did not sign the document. In November of 1984, I went to Lorenz and asked him why he would not sign the Canal PRO. I urged Lorenz to sign the PRO and allow it to be referred to the Office of Hearings and Appeals and let OHA decide which of us was right, myself, who wanted the PRO signed and issued, or Lorenz, who did not. Lorenz did not reply. A week to 10 days later, Norma White, an assistant to Landesman, told me I was "too pushy" about getting the Canal PRO signed.

On December 14, 1984, Ron Stiff of the Energy Department's Inspector General's Office was in my office on another matter. I pointed to the Canal entitlements case file that was lying on my desk and said to Stiff words to the effect that the case was being inexplicably delayed. I asked Stiff to try to find out the cause of the delay. Stiff replied that he would.

Stiff, who worked in the Audit Division of the IG's Office, did not report back to me on what, if anything, he did after this discussion about Canal. I believe it to be nothing more than coincidence that it was this same day, December 14, 1984, that Gordon W. Harvey, Assistant IG for Audit, directed IG Auditors Roy Taylor and John Lucas to begin an inquiry into three cases which had been delayed--Anchor, Canal and Total.

It has been asserted by Gloria Sulton and by certain other Energy Department officials that it was necessary to delay the Canal PRO because of the pending action against Cities Service wherein several points of entitlements regulations were being contested.

In her testimony before Congressman Dingell's Subcommittee, Sulton said:

> During the course of my work on that [Canal] case and discussions with Mr. Corrallo, Mr. Lorenz, Mr. Landesman, the various legal theories,

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> and the factual development of the case, we recognized some similarities between the Canal case and the Cities case, and at some point in late 1984, I suggested to Mr. Lorenz that he took another look at Canal, and that it was my suggestion that Canal not be signed off until we had issued Cities--or until we had finally determined what theories of violation, and what facts we felt were the operative facts. (p. 273)

Sulton added:

> I don't believe I subsequently talked to him about it, but I did want to recall to his attention the similarities between these cases and that may have occasioned some delay on his part.
>
> Cities was issued on March 5, 1985, and as a result of the issuance of the Cities PRO I did change the Canal draft again....so the Canal case was held perhaps partially as a result of my suggestion to Mr. Lorenz, but I suspect because he also recognized the similarities. (pp. 273, 274)

The Energy Department "Enforcement History" of the Anchor and Canal cases submitted to the Senate Governmental Affairs Committee by the Department was made available to me. The so-called History also refers to the Cities Service case as having served as a kind of model for the Canal action. The "Enforcement History" says:

> 3/5/85 PRO issued to Cities Service Company alleging $509 million of entitlements liability. Canal entitlements PRO drafts had been affected by development of legal theory for entitlements cases, reflected in larger Cities case.
>
> 4/8/85 Ninth draft of Canal PRO prepared alleging entitlements violations.
>
> 4/18/85 PRO issued to Canal alleging $21 million of entitlements violations. The PRO incorporates in part the approach taken in the Cities Service PRO.

The staff of the Senate Governmental Affairs Committee told me that in addition to the "Enforcement History" and Sulton's testimony, other Energy Department officials had made similar assessments of why Canal was delayed. I disagree with Sulton, with the "Enforcement History" and with those other officials who have tried to make this point.

I disagree because there was another entitlements case very similar to Canal. This was the Energy Department's action against Marion

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Corporation of Alabama. This case was allowed to proceed according to established procedures and with no intervention by Lorenz. No delays occurred while officials waited for the Cities Service action to be settled.

In the Marion case, the Federal Register Notice was published in August of 1984. The same principles of entitlements violations were involved in the Marion and Canal cases. If the Marion case could be published in the Federal Register prior to the resolution of the Cities Service case, the Canal Refining action could also have been made into a PRO and published in the Federal Register. In summary, then, there was no reason to hold up on Canal while going ahead with Marion.

Finally, I would like to stress this point. The draft PRO which I wrote in 1982, and which received "official final concurrence" of the General Counsel's Office in January of 1983, is the same PRO that was finally approved and published in the Federal Register in the spring of 1985. The only difference is that the interest increased about $2 million.

I have read the above affidavit of 10 pages and I have initialed each page. To the best of my knowledge, the information contained in the affidavit is true and correct.

William C. Lynch
William C. Lynch

City of Washington
District of Columbia

Subscribed and sworn to before me this
1st day of November, 1985
Notary Public
My Commission Expires [illegible]

Chairman ROTH. We will next call forward Mary Ann Ferko.

Ms. Ferko, would you raise your right hand, please? Do you swear the testimony you will give before this committee will be the truth, the whole trust, and nothing but the truth, so help you God?

TESTIMONY OF MARY ANN FERKO, EXECUTIVE ASSISTANT TO MR. WRIGHT

Ms. FERKO. Yes, I do.

Chairman ROTH. Please be seated.

Miss Ferko, I understand that you are Mr. Wright's executive assistant. How long have you worked for Mr. Wright?

Ms. FERKO. At the present time, I have been with him for the past 5 years. I have worked with him before, Mr. Chairman.

Chairman ROTH. On September 23, 1982, did you have occasion to witness a phone call in Mr. Wright's office.

Ms. FERKO. Yes, sir, I did.

Chairman ROTH. Will you tell the committee how that came about?

Ms. FERKO. I was called in to Mr. Wright's office. He had the phone in his hand, and he had his hand over the phone, and he said, "Mary Ann, I'm talking to Ray Hanzlik at Energy, and I would like you to witness my conversation with him."

And then he removed his hand from the telephone, and he proceeded to talk to Mr. Hanzlik.

Chairman ROTH. Did Mr. Wright ask or mention any special treatment for the family companies?

Ms. FERKO. No, sir, he did not.

Chairman ROTH. Could you say inferentially or by implication that he asked for special treatment? At any time?

Ms. FERKO. Definitely not.

He was very emphatic about the fact that the company had been trying to meet with the people in Kansas City; that a case had been dragging for a long, long time, and they want to get it resolved, and all they were asking for was a meeting with officials, either in Kansas or somewhere, to get the case resolved, and he said, "I am not asking you for any special treatment, Ray, I want you to handle this just the way you would handle any other case."

He also mentioned the fact that it wasn't just that one company that was having problems; he kept stressing the fact that there was a bureaucratic paper mess going on out in Kansas City, and was Ray aware of it. He said, "The cases apparently are all piled up, and this is just one of them."

Chairman ROTH. Did you hear what Mr. Hanzlik said in response?

Ms. FERKO. No sir, I did not.

Chairman ROTH. Did you make any memos or notations or keep any notes of the phone conversation?

Ms. FERKO. No, sir, I did not.

Chairman ROTH. Did you provide Janet O'Connor with a memo dated October 21, 1982, regarding the phone call between Mr. Wright and Mr. Hanzlik on that date?

Ms. FERKO. Did I give it to whom, please, Mr. Chairman?

Chairman ROTH. We will skip that question.

Did Mr. Wright ever ask you to witness any other phone call before or after that?

Ms. FERKO. No, sir, he did not.

Chairman ROTH. Did he ever explain why he wanted you to witness this particular call?

Ms. FERKO. After his conversation, I asked him what that was all about, and he explained the fact that his father had asked him if there was something that could be done to get the bureaucratic mess moving; that they were anxious to get the case resolved, and he said, "I didn't ask for anything, and I just wanted to make sure that Ray understood that, and that's why I asked you to sit in on the call." There was no question in my mind that Joe did not, definitely did not, ask for anything.

Chairman ROTH. After the phone call on September 23, did Mr. Wright say anything about Mr. Hanzlik's reaction?

Ms. FERKO. No, sir, he did not.

Chairman ROTH. Do you recall having been interviewed by a lawyer for this committee in June 1985?

Ms. FERKO. Yes, sir, I do.

Chairman ROTH. Do you recall having said then that after the call, Mr. Wright explained that he had met Ray Hanzlik at a cocktail party and discussed his father's troubles in getting the cases resolved because of a backlog in the field?

Ms. FERKO. It's very difficult for me, Mr. Chairman, to go back 3 years and remember verbatim exactly what I heard. I remember talking to Joe, but I didn't even ask him how he met Mr. Hanzlik, but he said that he met him at a cocktail party.

Now I cannot tell you whether he talked to him at the cocktail party. I got the impression from the way he said it to me that if he said anything it was, maybe a couple of words, but not a lengthy conversation. So, that part, I'm sorry, is not very clear in my mind. I remember him saying he met him at a cocktail party, yes.

Chairman ROTH. When did you have that conversation with Mr. Wright?

Ms. FERKO. Right after the conversation with Ray Hanzlik.

Chairman ROTH. Wasn't it your recollection that at the time of that conversation that he said he had discussed his father's trouble in getting the cases resolved?

Ms. FERKO. I got the impression that he did not go into a lengthy conversation, but that something was said about it. I can't even begin to even surmise what might have been said. It was the impression I personally received from the way he said it to me.

"I met him at a cocktail party, and now I'm calling him to ask him about a meeting."

Chairman ROTH. Did you ever mention or discuss the telephone call again with Mr. Wright?

Ms. FERKO. Other than right after the phone call?

Chairman ROTH. Yes.

Ms. FERKO. No, sir, I did not.

Chairman ROTH. In December 1984, did you receive an anonymous call——

Ms. FERKO. I received—I'm sorry.

Chairman ROTH. [continuing]. From the Department of Energy that a Mr. Harvey was out to get Joe Wright?

Senator EAGLETON. If he was anonymous, how does it come from the Department of Energy?

Chairman ROTH. I will let her answer the question, Mr. Eagleton.

Senator EAGLETON. An anonymous call from an anonymous department.

Chairman ROTH. An anonymous threat involving Joe's family's company?

Ms. FERKO. Yes.

Chairman ROTH. Do you recall getting a phone call?

Ms. FERKO. Yes, sir, I remember receiving two phone calls.

Chairman ROTH. You received two phone calls?

Ms. FERKO. Yes, sir.

Chairman ROTH. Let's go to the first phone call. Did the individual identify himself or herself?

Ms. FERKO. No, he did not identify or he did not say where he was calling from.

Chairman ROTH. So you have no idea whether it was or was not from the Department?

Ms. FERKO. I assume that he was from the Department of Energy, because he kept referring to "over here," and when he was talking about Mr. Gordon Harvey, he said when he was explaining what Mr. Harvey was doing, he kept saying "over here." And I just naturally assumed that he must have either worked with Mr. Harvey to be calling and saying Mr. Harvey was doing work "over here."

Chairman ROTH. Where did Mr. Harvey work?

Ms. FERKO. At the Department of Energy.

Chairman ROTH. So that was the basis of the conclusion?

Ms. FERKO. Yes, sir.

Chairman ROTH. What did this anonymous caller tell you in the first call?

Ms. FERKO. He had asked for Mr. Joseph Wright, and Joe's secretary said that he was out and the man said, "I need to talk to someone."

Chairman ROTH. I'm sorry. I can't hear.

Ms. FERKO. I'm sorry. Can you hear me now?

Chairman ROTH. Yes, please proceed.

Ms. FERKO. He asked to speak to Mr. Wright, and he was told that Mr. Wright was not in his office, and he said, "Well, who can I talk to? Does he have an assistant?" And Joe's secretary said, "Well, Miss Ferko can talk to you."

So I got on the telephone, and he asked me to spell my name, and he said, "I have a very important message for you to give it to Mr. Wright. There's a lot of strange things going on over here, there is a Mr. Gordon Harvey who has a witch hunt going on and he's trying to get Mr. Wright."

He said, "If he's gonna go down, he's going to take Mr. Wright with him," and he was not only going to take Mr. Wright down, but he also mentioned Martha Hesse, who is with the Department of Energy, and also Bill O'Connor, with the Merit Systems Protection Board. He said they were responsible for his downgrade and he was going to make them suffer.

He said, "I want you to be sure to tell Mr. Wright this," and I said, "I certainly will pass the message on to him," and he said, "I think it's terrible he's using Government resources for this private vendetta of his."

Chairman ROTH. Who was using the resources?

Ms. FERKO. He said Mr. Gordon Harvey was using Government resources for his private vendetta against Mr. Wright, and he said, "I think it's terrible. The man is sick."

Chairman ROTH. Was anything else said?

Ms. FERKO. He said Mr. Harvey is building a case against something that has to do with Mr. Wright's father's company. At that point, I asked him if there was anything else, and he said, "No."

Senator EAGLETON. What was the date of that call?

Ms. FERKO. That was December 14, sir.

Senator EAGLETON. 1984?

Ms. FERKO. 1984, yes, sir.

Chairman ROTH. Did you prepare a memorandum or any notes on this call?

Ms. FERKO. Yes, I did.

Chairman ROTH. I have here a memorandum dated December 21, 1984, memorandum for Mike Horowitz from Mary Ann Ferko. Is this a copy of that memorandum or letter?

Ms. FERKO. Yes, sir, it is.

Chairman ROTH. We would introduce this as an exhibit to the record. If there is no objection.

Senator EAGLETON. I am not going to object, Mr. Chairman, but bear in mind, as we move further, we are going to get into some double hearsay, some triple hearsay, some quadruple hearsay. I will not submit any anonymous calls. That is not my bag. And we don't—our side is not going to submit any anonymous calls. We have some very peculiar——

Chairman ROTH. Let me ask Miss Ferko.

Senator EAGTLETON [continuing]. Evidentiary gymnastics. Go ahead. I didn't object.

Chairman ROTH. Let me ask you this question, Miss Ferko: This is a memo on what this anonymous called said to you; is that correct?

Ms. FERKO. Yes, the two calls, sir.

Chairman ROTH. Two calls. When was the second call?

Ms. FERKO. The second call was, I believe, on the 19th.

Chairman ROTH. What did the caller say the second time? Did it sound like the same voice?

Ms. FERKO. Yes, it was definitely the same person. He asked for me again.

Chairman ROTH. What did the person say the second time?

Ms. FERKO. He said that he wanted me to be sure to tell Mr. Wright that Gordon was ready to wrap up his case, that he had his witch hunt completed and he, once again, mentioned that he had been using resources from the Department and he said, "It's just terrible that this man is getting away with all this." He said, "I just want Mr. Wright to be aware of the fact that Gordon's ready to wrap up whatever investigation he's been working on."

Chairman ROTH. Next we have a log of telephone calls to and from Mr. Wright dated September 23, 1982. Would you examine that and say, is that a record of that day of telephone calls?

Senator GORE. Is the unanimous consent request still outstanding?

Chairman ROTH. Yes.

If you will hold up just 1 minute, Senator Gore?

Senator GORE. I was just going to reserve the right to object and inquire whether or not we might revisit the request of the ranking minority member to insert a few documents at the beginning of the hearing and amend the request to insert those documents along with these.

Senator EAGLETON. The point being, and I agree with my colleague, I want to insert some documents from a living individual, a real individual, who is identified and named and gave a statement to the staff of Senator Roth, a person, a body, got two arms, a head, tow legs, a living creature. I'm not objecting to anonymous spooks. We are close enough to Halloween that it is OK, it is in the season.

But if we are going to put in spook testimony, then I think we ought to put in the statements of Wehrle-Einhorn that I asked, interviewed, from the Roth staff, interviewed from the Eagleton staff.

Chairman ROTH. I think there is a significant difference in this one case. You are asking to put in the work product of both the majority and minority staff, which, as I said, I would take under advisement, because it isn't direct testimony or the best testimony.

In this case here, all we are asking is that it be included in the record as a statement, recorded by the witness contemporaneously, of what she was told on the phone.

Now, as to whether what the caller said was accurate or not is another question, but I would ask the distinguished Senator from Tennessee, are you challenging it on the grounds that it is not an accurate reflection of what she heard on the telephone?

Senator GORE. Well, I'm challenging it on the—or I am raising two sorts of questions: One is a question of symmetry. If the documents referred to by the distinguished Senator from Missouri earlier are not to be allowed in the record, then I don't see why these should be.

Second, the whole question of an anonymous phone call about a personnel matter 1 year after these events in question took place seems of marginal relevance to me, and to avoid putting extraneous material in the record, I am perfectly willing to do it, but I think that the other material ought to be included, and I don't think that is unreasonable, Mr. Chairman.

Chairman ROTH. I would just point out, in the one case, we have the witness here, under oath, and she is testifying under oath that this is her summary made at the time of the call as to her best recollection of what was said to her on the telephone.

Senator GORE. We had—excuse me.

Chairman ROTH. Now, in the case of the statement by the majority and minority, those are not under oath, nor are the staffs of the majority or minority witnesses to the case. I have not ruled out the admissibility, but in order to move ahead——

Senator EAGLETON. I am not going to object, obviously, this phone log is very relevant. I will ask the Chairman to consider this, since he has it under advisement, that at the conclusion of the case, that we put the staff interviewers under oath and have them swear that this is the interview it took, the interview they had with Mr. Wehrle-Einhorn and have it be in the record under oath.

Chairman ROTH. It is not my intention to have the staff from the committee under oath.

Senator EAGLETON. Mr. Asselin is here. He is ready, here and willing.

Chairman ROTH. We will keep it under advisement.

Senator GORE. I would object, Mr. Chairman.

Senator RUDMAN. Mr. Chairman, if I may for 1 minute?

Chairman ROTH. Yes; the Senator from New Hampshire.

Senator RUDMAN. Mr. Chairman, I hope we don't get into a terrible procedural haggle here. I know Senator Eagleton very well. He's a very good lawyer, and he knows precisely the difference between what this exhibit is and the exhibit that the chairman has under consideration.

The problem with the minority-majority staff reports is that they were taken without the benefit of cross-examination to supplant testimony that is a matter of record sworn before a House committee, before the Dingell committee, in which Mr. Wehrle-Einhorn has submitted his best evidence, and it seems to me, and I haven't seen the affidavit, I haven't seen the two statements, that you have got that as his best testimony given under oath before a committee of the House, and nobody ever thought the Dingell committee was any cream puff committee.

He has given his best evidence. Now, we put these other two statements in. There is the possibility there is a conflict. I don't know, and I don't think that we ought to, under any circumstances, take that testimony, which is under oath, and supplant it with other testimony. Just to keep this record straight.

Now, as far as Miss Ferko is concerned, I have never seen a court of law in my life, and I have practiced in many, where a witness who prepared, under the rules of evidence, a contemporaneous memorandum to confirm her oral testimony would not have that allowed as an exhibit. I think that is outrageous, if Miss Ferko, who is under oath here, isn't allowed to say, "This is my memorandum, it was contemporaneous, this is my signature, and I want it in the record to supplant my verity."

To me I don't understand why that is being objected to. I don't think—it ought to be in respect to the witness, but not in respect to the committee.

Chairman ROTH. I want to proceed. We have a lot of ground to cover.

Senator EAGLETON. I also want it known that we were not shown this memo under our mutual agreement on this investigation, read and let read.

Chairman ROTH. My understanding is that that is not correct, that this had been made available to you.

Let's proceed, because we don't want to get bogged down. We will not admit any of the material for the moment. I would just emphasize to both sides that in an effort to get at the basic facts, it has been the policy for statements to be prepared by both the majority and minority staff and to exchange them. I think it would be a very difficult precedent if those became a substitute for the evidence, but rather than thrash it out, for the moment, let's proceed with the witness.

Senator EAGLETON. Let's go ahead with the testimony.

Chairman ROTH. With the testimony.

Let me move along. We would like to offer an exhibit. I will let the minority look at it—the telephone call log dated September 23, 1982.

Ms. FERKO. I'm sorry, Mr. Chairman. I don't have that log in my hand. That is February 1.

Chairman ROTH. We have a vote. I think in the interest that everybody wants to be here that we will recess until I return.

Senator LEVIN. Mr. Chairman, do you intend to finish today with this hearing?

Chairman ROTH. It is my hope that we will be.

Senator LEVIN. You still have that hope?

Chairman ROTH. Yes, I do. [Laughter.]

I look forward to a long evening.

[Short recess.]

Chairman ROTH. The committee will be in order.

Senator Eagleton has looked at the log of telephone calls dated September 23, 1982, and has no objection to it being included as part of the record.

Miss Ferko, who filled out this log?

Ms. FERKO. That log is kept by one of Joe's secretaries.

Chairman ROTH. And do you have a copy of this exhibit before you?

Senator EAGLETON. Do I?

Ms. FERKO. The September 23? Yes, she just gave it to me.

Chairman ROTH. And you have a copy?

Senator EAGLETON. Yes.

Chairman ROTH. Does the checkmark after the name mean that person was called, so in the case of Coty Dupre, the contact was made?

Ms. FERKO. Yes, sir, that's true. The checkmark means the call was completed.

Chairman ROTH. Would you explain what the numbers, in the case of Coty Dupre, what those numbers on the in column and out column mean?

Ms. FERKO. Under the "in" column, you will see 10:10. Coty Dupre called Joe at 10:10 in the morning. He left a message, will call later in the afternoon, but Joe tried to get him back at 10, it looks like 30, and LW under that time means left word.

Coty Dupre called Joe back at 12:15, apparently Joe was not available for the call, and at 2:25, the little number under the 10:15 would be the last time, that would be the time the call was actually completed. It's the last time listed, and then the secretary would make the check there.

Chairman ROTH. The check after the name?

Ms. FERKO. Yes, sir.

Chairman ROTH. That completes my questioning, Miss Ferko. Senator Eagleton.?

Senator EAGLETON. Miss Ferko, you said you had worked for Joe for, what, the past 4 years in Government?

Ms. **Ferko**. Yes, sir, but as I explained before, I worked with him before that.

Senator **Eagleton**. Where was that and for how long?

Ms. **Ferko**. I first met Joe about 14 years ago at the Department of Commerce. Joe had just arrived as the Deputy Director of the Census Bureau. I, at that time, was the executive assistant to the Assistant Secretary for Economic Affairs.

The Census Bureau fell under that Assistant Secretary's jurisdiction.

Joe would come in for meetings, in fact at one time, he was wearing four hats because the Director of the Census Bureau had resigned; the Assistant Secretary had resigned, and Joe did act as Acting Secretary for a short period of time. He was then appointed to the Department of Agriculture as the Assistant Secretary for Administration.

Joe asked me to go with him to Agriculture, so I went with him.

Senator **Eagleton**. What timeframe was all of that, Commerce and Agriculture? Is that back in, what, Nixon-Ford years or something?

Ms. **Ferko**. Years ago.

Yes.

Senator **Eagleton**. How long did you work for him during that span of time?

Ms. **Ferko**. I worked for him all the time he was at Agriculture, a total of about, 3½ years.

Senator **Eagleton**. Commerce and Agriculture.

Ms. **Ferko**. Commerce and Agriculture.

Senator **Eagleton**. In the Carter administration, did you work for Joe on the outside?

Ms. **Ferko**. No, sir, I stayed on at the Department of Agriculture for 4 years.

Senator **Eagleton**. When Joe came back in the Reagan years, did you work for him over at Commerce?

Ms. **Ferko**. Yes, sir, I did.

Senator **Eagleton**. Then when he moved from Commerce over to OMB, you moved?

Ms. **Ferko**. We came together, yes.

Senator **Eagleton**. So altogether, you have worked with Joe 14 years; is that correct?

Ms. **Ferko**. I have known him 14 years. There were 4 years that we were not working together.

Senator **Eagleton**. OK.

When Joe called you in to his office and he had his hand over the mouthpiece of the phone, is your office adjacent to his?

Ms. **Ferko**. My office is directly across the hall from Joe's.

Senator **Eagleton**. Across the hall from his?

Does he have, like, a personal secretary that sits outside his office?

Ms. **Ferko**. Yes. Joe has two secretaries. One sits outside the office and the other one sits in the outer office.

Senator **Eagleton**. And the other one sits in an outer office?

Ms. **Ferko**. Yes.

Senator **Eagleton**. And you sit across the hall?

How did he contact you to come over?

Ms. **Ferko**. I was buzzed by one of the girls, I cannot remember which one, and was told to come over.

Senator **Eagleton**. She told you to come over to Joe's office?

Ms. **Ferko**. Yes.

Senator **Eagleton**. And you don't know how Joe contacted one of the two girls?

Ms. **Ferko**. No, sir, I do not.

Senator **Eagleton**. In any event, when you get there, he has got his hand over the speaker part of the phone?

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. That is when he tells you, "I am now talking to," what did he say?

Ms. **Ferko**. Excuse me?

Senator **Eagleton**. What did he say? He had his hand over the speaker of the phone, and he said, what does he call you?

Ms. **Ferko**. Mary Ann.

Senator **Eagleton**. Mary Ann, and then what did he say to you?

Ms. **Ferko**. He said, "Mary Ann, I am talking to Ray Hanzlik from the Department of Energy, and I would like you to sit down and listen to my conversation." So I sat down.

Senator **Eagleton**. OK, "I am talking to him," you didn't get on the phone?

Ms. **Ferko**. No, sir.

Senator **Eagleton**. You just sat and listened to his part of the conversation?

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. Of course, you didn't hear the early part of the conversation?

Ms. **Ferko**. No, sir.

Senator **Eagleton**. Hanzlik was already on the phone when you were there. You took his word that he was talking to Ray Hanzlik?

Ms. **Ferko**. I heard him call him Ray.

Senator **Eagleton**. Well, whoever was on the other end of the phone, you heard him call him Ray?

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. But you don't know what he said to Ray earlier?

Ms. **Ferko**. No, sir, I have no knowledge, until I walked in the room.

Senator **Eagleton**. How long did the conversation take, the part that you heard?

Ms. **Ferko**. It was not a lengthy conversation.

Senator **Eagleton**. The part you heard?

Ms. **Ferko**. The part I heard?

Senator **Eagleton**. Was not lengthy?

Ms. **Ferko**. No.

Chairman **Roth**. Would you pull the microphone closer, please?

Senator **Eagleton**. You have no estimate how long the conversation was which preceded with Joe?

Ms. **Ferko**. No, sir, I do not.

Senator **Eagleton**. Does Joe have a direct line where people can dial in on his direct line, direct number that rings at his desk?

Ms. **Ferko**. Are you referring to, like intercom systems?

Senator **Eagleton**. No, telephone?

Ms. **Ferko**. Or an outside line?

Senator **Eagleton**. Outside telephone.

Ms. **Ferko**. No, sir. Everything is connected with the girls out front.

Senator **Eagleton**. So any call comes in to the girls out front? He can dial out on his own, though, can't he?

Ms. **Ferko**. He can dial out, yes, sir.

Senator **Eagleton**. You dial "9" and then an outside number?

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. So he can make any number of outgoing calls without utilizing the services of any of the two ladies out in the front or you, for that matter?

Ms. **Ferko**. That is correct.

Senator **Eagleton**. You don't keep this log of calls?

Ms. **Ferko**. No, I do not.

Senator **Eagleton**. You said, what is the lady's name who keeps this?

Ms. **Ferko**. One of Joe's secretaries.

Senator **Eagleton**. One of Joe's secretaries. What is her name?

Ms. **Ferko**. Sandra Via.

Senator **Eagleton**. And is she still with Joe?

Ms. **Ferko**. She certainly is.

Senator **Eagleton**. And she was with him, obviously on September 23, 1982?

Ms. **Ferko**. Yes. Sandy has been with us since we arrived.

Senator **Eagleton**. OK.

Do you know how often Joe talks with his father on the phone?

Ms. **Ferko**. No, I cannot say honestly I know how many times he talked to him.

Senator **Eagleton**. Do you think Sandy would know?

Ms. **Ferko**. I imagine if Joe asked her to place the phone calls, she would.

Senator **Eagleton**. If they are incoming calls?

Ms. **Ferko**. Oh, yes, incoming calls.

Senator **Eagleton**. She would know about all of them, wouldn't she?

Ms. **Ferko**. The incoming calls from Joe's dad are shown on his telephone logs, yes, sir.

Senator **Eagleton**. OK. I am talking during business hours, of course.

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. So Sandy would hear a call coming in from Joseph Wright, Sr.?

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. Joe could either return it through Sandy to Joseph Wright, Sr., if he had a mind to or do it direct? Did he have a WATS line? Does Joe have a WATS line in his office?

Ms. **Ferko**. No, I don't believe so. You mean the eight-WATS line?

Senator **Eagleton**. Dial long distance?

Ms. **Ferko**. Yes, we are all connected with it.

Senator **Eagleton**. So he could make WATS line calls back to his father from Joe Wright to senior Wright, if the mechanics are there?

Ms. **Ferko**. On the WATS line?

Senator **Eagleton**. Sure.

Ms. **Ferko**. Joe uses his credit card for personal phone calls.

Senator **Eagleton**. But if he were a mind to, absentminded, if he was absentminded on the 23d, he could call his dad on the WATS line from the office, if he were absentminded and home at night, and no one would monitor calls between Joe Wright, Sr., and Joe Wright, Jr., would they, or in the morning or on the weekends or Sunday or holidays? That would be between Joe and his dad.

Did Joe ever comment to you about his dad sort of pestering him?

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. Calls?

Ms. **Ferko**. Yes, sir, he did.

Senator **Eagleton**. Tell us about that.

Ms. **Ferko**. I walked into his office one evening.

Senator **Eagleton**. Do you know when this was?

Ms. **Ferko**. It was months, it was months. Can you hear me? I am sorry. I keep moving.

Senator **Eagleton**. Yes, sure.

Ms. **Ferko**. It was months after the initial phone call to Ray Hanzlik.

Senator **Eagleton**. Months after September 23.

Ms. **Ferko**. Yes. I am sorry, I cannot be specific as to the day.

Senator **Eagleton**. A month, could it be a year, 12 months, or what kind of range are we talking, 3 months?

Ms. **Ferko**. I would say within a year.

Senator **Eagleton**. Within a year?

Ms. **Ferko**. I walked into Joe's office, and he had just hung up the phone, and he said, "I just wish he'd quit calling me. I told him I didn't want to talk to him about the case. I am not able to talk to him about the case, and that it's their problem. He and his lawyers can handle it. I don't know a thing about it, and I really don't want to know anything about it."

Senator **Eagleton**. "I just wish he'd quit bothering me. Can't talk to him about the case, his lawyers can talk about the case. I just wish he'd quit bothering me."

Ms. **Ferko**. Yes. In fact, I believe that phone call is on the telephone logs.

Senator **Eagleton**. OK. Do you examine Joe's incoming personal mail?

Ms. **Ferko**. Yes, sir, I do.

Senator **Eagleton**. Did Joe get some letters from his father? Do you open those, or do those go directly to him?

Ms. **Ferko**. The very, very few letters that I think he's received from his dad, I would not open.

Senator **Eagleton**. OK. Did any mail ever come in that has anything marked on it like Anchor or Canal, Joseph Wright, Jr., Enterprises, any kind of corporate kind of stuff that is connected with Joseph Wright, Sr., Anchor or Canal. Do any of those names ring a bell?

Ms. **Ferko**. I have heard the names before. I haven't seen them.

Senator **Eagleton**. Have you seen mail come in?

Ms. **Ferko**. I have seen things with the letterheads. His father usually does not send mail to the office; very rarely.

Senator **Eagleton**. Have you seen Anchor letterheads?

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. Letterheads, Canal?

Ms. **Ferko**. I'm sure I have.

Senator **Eagleton**. Do you open those, sort of sort them out for Joe or do you take them unopened?

Ms. **Ferko**. All of his personal mail is sent to him in the envelope, not open.

Senator **Eagleton**. And you consider Anchor and Canal personal?

Ms. **Ferko**. Yes, I do.

Senator **Eagleton**. Do you keep Joe's files?

Ms. **Ferko**. Do I maintain the files in the office?

Senator **Eagleton**. Yes.

Ms. **Ferko**. No, I do not, sir.

Senator **Eagleton**. You do not? Does Joe keep files? He must have a file with his will.

Ms. **Ferko**. Yes, he does.

Senator **Eagleton**. A file about his insurance policies?

Ms. **Ferko**. Right.

Senator **Eagleton**. A file about his health care coverage?

Ms. **Ferko**. Right.

Senator **Eagleton**. Does he have a file on Anchor and Canal?

Ms. **Ferko**. Yes, he does.

Senator **Eagleton**. Have you ever placed things in that file?

Ms. **Ferko**. No, I don't do the filing, sir.

Senator **Eagleton**. Who does that?

Ms. **Ferko**. Sandy Via.

Senator **Eagleton**. My time is up, Mr. Chairman. I think my questioning and the other questioning, it will become abundantly clear that we need Sandy Via. I did not know Sandy Via until today. I thought Miss Ferko handled all of this Anchor and Canal stuff for Joe. She gets the mail, but it goes on to Joe, and then it's filed.

What we are interested in, of course, are calls from his father, because his father was becoming a pest to Joe about Anchor and Canal, and we want to know what kind of mail, not the contents, but the volume of mail he gets on Anchor and Canal, a company in which he owns a $550,000, I think, worth of stock, and I think it is necessary because if you will recall, Mr. Chairman, at the first hearing, Joe didn't seem to know all that much about Anchor and Canal. He had some memory lapses.

So I think it's necessary to know what Joe perceives in the way of information, and I would make the request——

Ms. **Ferko**. Excuse me.

Senator **Eagleton** [continuing]. That he ask this Sandy Via to come forth as a witness. I don't think it would take long, I think it would be about a 10-minute witness.

Chairman **Roth**. The Chair will take that under advisement. I will point out, however, that the minority had the opportunity to review the list of witnesses with the majority, and we had agreed on a witness list.

Senator **Eagleton**. We agreed on the list. You know, I didn't agree on an anonymous witness. That didn't appear on the witness list. Where is Mr. Anonymous here?

Chairman **Roth**. Let me point out, in all candor——

Senator **Eagleton**. You have brought forth Mr.——

Chairman **Roth** [continuing]. That nothing new has come forward as far as I am concerned in the testimony of Miss Ferko.

In any event, we will take it under advisement. Let's continue with the current witness.

Senator **Eagleton**. Is Sandy Via in town, Miss Ferko?

Ms. **Ferko**. Yes, she is, sir, but if it's the volume you are interested in, I should tell you. Sandy gets the mail first, and then it's given to me. There is nothing that goes in there that I don't see.

Senator **Eagleton**. It is the volume, and then if she opens it and it is status records, if it is monthly statement of sales, it is earnings reports, that would be useful for this committee, because Joe Wright doesn't know anything about Anchor and Canal. I think the evidence would show he knows a lot about Anchor and Canal, the lifeblood of his family.

Chairman **Roth**. I would point out there was a period of several months that staff had to investigate, and I think that we really have to proceed with this.

In the meantime, we will call upon Senator Rudman.

Senator **Rudman**. Thank you, Mr. Chairman, We are dealing, obviously, here, Mr. Chairman, with a conspiracy theory. I am still anxious to get to the three witnesses, because there has to be an explanation for what seems to be unusual delays in this case.

Obviously, there are those who believe that it is becuase of that telephone call that we just had testimony about.

Miss Ferko, who is Mike Horowitz?

Ms. **Ferko**. He is our counselor. He is the counsel for the Office of Management and Budget.

Senator **Rudman**. And after you received this telephone call from the unidentified caller, who you assumed to be at Energy, and after the second call, you prepared a memoranda, and you sent it to Mike Horowitz?

Ms. **Ferko**. Yes.

Senator **Rudman**. So presumably, if we wanted to, we would find that in Mr. Horowitz's files, dated somewhere around the 21st of December, there would be this memorandum?

Ms. **Ferko**. Yes, sir.

Senator **Rudman**. Did you give a copy of this or orally inform Mr. Wright about it?

Ms. **Ferko**. Oh, yes. Mr. Wright and I had a lengthy conversation after those phone calls, because we were trying to figure out what in the world Mr. Gordon Harvey was accusing Mr. Wright of. We said, "He's talking about something pertaining to your father's company," and Joe said, "I can't imagine what in the world this man is doing. I don't know Gordon Harvey, I've never met him that I know of."

He said, "What does he have against me?" I said, "The man said that it had something to do with your father's company," and he said, "I can't remember anything that would have to do with

Energy, and my father's company," and then we sat down and started talking.

We went back to the only thing that we could recall—that phone call that I witnessed 3 years, 2½ years, before, and he said, "I can't believe it could be that. What could he be accusing me of after making that phone call." He said, "You heard what I said to Ray."

Senator **RUDMAN**. I just wanted to get clear on the record why you prepared this memorandum.

Ms. **FERKO**. Right, yes, sir.

Senator **RUDMAN**. I think I have done that. If the chairman is going to submit it again, I happen to believe it certainly ought to be in our record because of the fact that it corroborates completely the witness' testimony. The witness is under oath.

But I want to get back to the phone call, because everything flows from that phone call. The whole case, imperfect or perfect as it is, is woven around that phone call. You have testified to that.

Do you ever get the feeling, Miss Ferko, that it is possible that you were being used in any way by Mr. Wright, that this was being done for your benefit and that the call had any purpose?

Let me restate it.

Ms. **FERKO**. Yes, please. I am sorry.

Senator **RUDMAN**. Did you view at the time that what Mr. Wright said was was exactly what he meant? Did you get a feeling that perhaps you were being being called as a witness to a phone call that Mr. Wright was nervous about making?

Ms. **FERKO**. No, sir. I felt very comfortable with it. I was not anxious about it.

Senator **RUDMAN**. So you didn't put a particularly high——

Ms. **FERKO**. No, sir.

Senator **RUDMAN** [continuing]. Value on that phone call?

Ms. **FERKO**. No, I'm sorry, I did not. As far as I was concerned, all he was doing was asking for a meeting to take place, and he kept saying, "I'm asking for no special favors. I want you to handle the case the way you would ordinarily do."

Senator **RUDMAN**. How long did that whole conversation take? How long was the conversation?

Ms. **FERKO**. I can't really say in minutes. It was maybe about 5 minutes, I don't know.

Senator **RUDMAN**. Would you call it a brief conversation, a long conversation?

Ms. **FERKO**. He said quite a bit. He kept talking about the paperwork backlog in Kansas City; that the cases seemed to be piled up and it seems it would be nice if somebody would repay the courtesty of a meeting with these people. They were trying to get someone to meet them, so he said enough that it's hard for me to say whether it was 5 minutes, 10 minutes.

Senator **RUDMAN**. So it was obvious to you, your conclusion, the purpose of Mr. Wright's phone call was to light a fire, if you can use that expression, under these folks to get them to move toward considering and concluding the case, however they wished to do that; is that your conclusion?

Ms. **FERKO**. That was my conclusion. He did not want them to favor the company at all. It was just that it had been dragging on too long, and his father and his company would like to see this thing resolved.

Senator RUDMAN. And I take it from the conversation that you witnessed that this was a matter of some conflict between father and son; is that correct?

Ms. FERKO. Yes, sir.

Senator RUDMAN. In the sense that the father thinking his son held a very important position in Washington ought to be able to get this case heard, is that what you heard from Mr. Wright?

Ms. FERKO. Exactly, just heard.

Senator RUDMAN. How long have you worked for Mr. Wright?

Ms. FERKO. I have known him for 14 years. I have worked for him for about 11.

Senator RUDMAN. How long have you been in Government service?

Ms. FERKO. Thirty-one years, sir.

Senator RUDMAN. How many years?

Ms. FERKO. Thirty-one.

Senator RUDMAN. In all the time that you have worked with Mr. Wright, had there been any occasion where you saw him do something that you thought betrayed the integrity of his office in your view?

Ms. FERKO. I wouldn't work with him if he was.

Senator RUDMAN. You have been in Government—I find that remarkable—31 years?

Ms. FERKO. Yes, sir.

Senator RUDMAN. What other kinds of jobs have you had in Government, Miss Ferko?

Ms. FERKO. How far back do you want me to go, Senator Rudman,

Senator RUDMAN. Not too far back, you can go back 10 or 15 years, if you like. Other than work for Mr. Wright for the past 15 years, what departments, what did you do?

Ms. FERKO. When Joe was working in New York for 4 years, I was working for the Inspector General's Office at the Department of Agriculture. Before starting to work with Joe, I worked for four Assistant Secretaries for Economic Affairs at the Department of Commerce, through four administrations.

Before that, I was at the New York World's Fair working as a protocol officer, and I was with the State Department before that. My career started at the Justice Department.

Senator RUDMAN. You find yourself here, Miss Ferko, as the only witness to the contentious conversation from which this all flows, for whatever reason.

Ms. FERKO. I am aware of that, sir.

Senator RUDMAN. Your testimony is very important. I really just want to ask you one question. You know you are under oath here today?

Ms. FERKO. Yes, sir, I do.

Senator RUDMAN. You know if your testimony in any way could be impugned that your entire 31 years of Government could go to naught, you know that?

Ms. FERKO. I certainly do, sir.

Senator **Rudman**. I don't mean that as a threat, I say that as a matter of information.

Ms. **Ferko**. I am aware of it.

Senator **Rudman**. You are telling the committee, under oath, a 31-year employee of the Federal Government, that you heard this conversation, it was brief, and your reasoning in hearing that half——

Senator **Eagleton**. She heard part of it.

Senator **Rudman**. I just said that, hearing that half of the conversation was that Mr. Wright was asking for this matter to be expedited, but he wasn't asking for any special treatment whatsoever.

Ms. **Ferko**. That is correct, sir.

Senator **Rudman**. And you stand on that?

Ms. **Ferko**. I stand on that firmly.

Senator **Rudman**. In the past 4 years, or during the time that Mr. Wright has been at OMB on this stint, you are testifying that on no other occasion have you heard him engaged in, in any way, any activity regarding to Anchor or Canal, is that correct?

Ms. **Ferko**. That is correct, sir. He has recused himself and I know what actions he has taken on his recusal. There isn't a week that goes by that Joe does not get briefing papers. Joe does not go to half of a Cabinet Council meeting if they are talking about energy matters. I personally will not even let him see the Department of Energy daily inside newsletter.

Senator **Rudman**. Because of his family's involvement in the business?

Ms. **Ferko**. Exactly. We take no chances whatsoever in the office, and all of his secretaries are aware of his recusal, and we are all very, very aware of the way he feels about it. He doesn't want to see one piece of paper.

Senator **Rudman**. Miss Ferko, no member of my staff has ever discussed my questions to you before this hearing; is that correct?

Ms. **Ferko**. That is correct.

Senator **Rudman**. In fact, you and I have not met before today; is that correct?

Ms. **Ferko**. No, sir, we have not.

Senator **Rudman**. Thank you.

Chairman **Roth**. Senator Gore.

Senator **Gore**. Thank you very much, Mr. Chairman.

I find your testimony very credible, Ms. Ferko, except on one point. I find it difficult to believe you have been in government service for 31 years. [Laughter.]

Ms. **Ferko**. Thank you, sir.

Senator **Gore**. That sort of undermines the credibility, there, a little bit. [Laughter.]

You seem to me obviously to be very candid, simultaneously candid and loyal, which is sometimes tough, but I think that is obvious on its face. I commend you for your candor.

I think there is really only one important thing that comes out of the testimony of this witness: Because even were it established that the only contact Mr. Wright had with the Department of Energy was this call to Mr. Hanzlik, that would be enough to set in motion the events which followed. Because of his position, because of his power over the Department of Energy, because of his power over Mr. Hanzlik, the single telephone call by itself would have been enough to result in the case being fixed.

Whether Mr. Wright intended that result or understood that that would be the result, I don't know. He certainly should have understood that those consequences would flow, and I think that it is not at all surprising that they did grow from that telephone call, given the cast of mind in the Enforcement Office at the top level of the Department of Energy at the time.

But your testimony is significant to me for something else altogether. You testified that when this telephone call took place, Mr. Wright told you that he had talked with Mr. Hanzlik a week or so earlier and had mentioned the case to him at that time and that the telephone call was a followup to that conversation which both parties to the conversation anticipated would take place.

Is that correct?

Ms. **FERKO**. Sir, I can only be honest about this.

Senator **GORE**. Yes.

Ms. **FERKO**. And going back that far is not an easy thing for me to do. The only time that I have really had to sit down and try to remember what in the world happened 3 years ago was after we got these anonymous phone calls, and that's when Joe and I sat down and tried to put this whole thing together, and what transpired at that phone call, when the phone call was made. When we first got the anonymous phone calls, we honestly couldn't remember when he talked to Ray Hanzlik. We didn't know how many years ago it was. We had to go through all of our phone records until we found Ray Hanzlik's name. And then when we discovered——

Senator **GORE**. Well, Ray Hanzlik was not a stranger to the office. He had been in the office. At the time that you started reconstructing these events, Mr. Wright had offered him a job. He tried to hire him and had had coversations with him.

Ms. **FERKO**. That was 2 years ago.

Senator **GORE**. As I said, prior to the time——

Mr. **FERKO**. Right.

Senator **GORE** [continuing]. That you tried to reconstruct it. So it is not as if you tried to dredge the memory of Ray Hanzlik out of the distant past. But the specific phone call, you did have to search for. That is what you are saying?

Ms. **FERKO**. Yes, we had to search for that. I had to search the appointment book to find Ray Hanzlik.

Senator **GORE**. Yes.

Ms. **FERKO**. His name did not mean anything to me. I mean, we have so many appointments.

Senator **GORE**. Yes, but at the time. Let me ask you this specific point. At the time of the telephone call, it is your memory that Mr. Wright told you that a week or so earlier he had talked to Mr. Hanzlik at a cocktail party about the case, and that one or the other of them was going to call, and that he had placed the call pursuant to that earlier conversation. Is that correct?

Ms. **FERKO**. The implication was that Joe talked to Mr. Hanzlik at the cocktail party and what I drew out of what Mr. Wright said. He said, "I met him at a cocktail party."

I felt that implied he must have said something to him.

Senator GORE. And——

Ms. FERKO. Nothing more than, "I'm going to give you a call." Maybe he didn't say anything. It was an implication. Joe did not specifically say.

Senator GORE. In an interview on June 4, 1985, with Bobby Kammerman of the committee staff——

Senator EAGLETON. Senator Roth's staff, majority staff.

Senator GORE. The majority staff, you said the following.

> After the call, after the call Joe explained that he had met Ray Hanzlik at a cocktail party, perhaps the week or so before and had mentioned something about his father having asked him to do something to get the thing moving. At the party, Joe asked Ray if he knew that there was a backlog in the field and Ray acknowledged that things were very slow there. They agreed that things were slow there. They agreed that one would call the other, and Joe said that he mentioned his father had been bugging him.

If it was a week or so earlier, the telephone call took place on Thursday, on September 23, 1982. A week earlier would have been Thursday, September 16 or presumable, if it was a party, it might have been on Friday or Saturday, the 17th or 18th.

That day, those days are significant, because they come only 2 to 3 days after September 14, 1982, when the PRO was formally issued to Anchor. So if your recommendation is correct, then it would mean that the Department of Energy formally notified the Wright family oil company that they had a big overcharge they were going to have to pay back.

A couple of days later, Joe Wright runs into the head of the enforcement division at a party and says, "yes, my father has asked me to get this case moving along. Maybe we can talk about it some time soon."

Then a week later, he calls him up on the phone and says, "Can you get this thing moving?"

That is the way I put together the dates, but it all hinges upon your one recollection that a week prior to September 23, 1982, Mr. Wright had a conversation with Mr. Hanzlik about the case at a cocktail party. That, to me, is a significant matter in your testimony, and that is really the point that I wanted to pursue here.

Do you want to comment on that?

Ms. FERKO. Yes, please, sir.

When we discovered—I have to keep going back to these—the anonymous phone calls, because that's when Joe and I actually set down and tried to put this whole puzzle together. At that time, we were trying to figure out whether it was spring or whether it was the fall when he met him at this cocktail party, and he said it was outside. He said it had to be when it was warm. When I checked the records it was September 23, when the phone call was made. I said, it was in the fall. It wasn't in the spring. He said, well, I guess they can still have parties outside in September. It's still warm enough.

Now, I can't say that, it was a couple of weeks—I might have phrased it "a couple of weeks." I have no way of knowing when that party was. As I said, I made complete notes of my conversation with Bobby Kammerman after she left. Now, I do remember telling her about the cocktail party and that Joe said he met somebody at a cocktail party. My notes do not go into depth that much about what was discussed. But my notes do actually say that he did meet him at a cocktail party.

Senator GORE. Mr. Wright didn't tell us about the meeting at the cocktail party. He said the call was the only contact. But that, to me, is the significant portion of our testimony, and I thank you for your appearance.

Chairman ROTH. Senator Cochran.

Senator COCHRAN. Thank you, Mr. Chairman.

As I understand it, Ms. Ferko, to your knowledge, in your conversations with Joe Wright he has never said anything to create the impression in your mind that he was attempting in any way to influence any Department of Energy decisions regarding the Anchor of Canal cases, is that right?

Ms. FERKO. That is correct, sir, definitely not.

Senator COCHRAN. There is some statement, as I understand, in your testimony, about the Gordon Harvey——

Ms. FERKO. Yes, sir.

Senator COCHRAN [continuing]. Episode, that calls were made to you or the office warning you that Gordon Harvey was trying to hurt Joe Wright in some way?

Ms. FERKO. Yes, sir.

Senator COCHRAN. And I also understand tht you don't know who made those calls, is that right?

Ms. FERKO. No, sir, he did not identify himself.

Senator COCHRAN. Was it you who talked to the person over the telephone?

Ms. FERKO. I received the two phone calls that came in in December 1984. Our anonymous phone caller called on Friday, this past Friday. I was out sick; the call was taken by Mr. Wright's secretary. So I'm not the only one who has listened to the anonymous phone caller.

Senator COCHRAN. Is it the same person who has called on each of these occasions or a different person?

Ms. FERKO. Joe's secretary said that the gentleman that called asked to speak to me. He was told that I was home sick. She offered to give him my telephone number, because he said, I can't tell you, I can't give you my name, and she said, "Mary Ann is taking calls at home if you would like to call her, and he said, no, I don't want to bother her, but there's something that I really think Joe should know. He said, I talked to Mary Ann Ferko before about Gordon Harvey, and there's some more information I wanted to pass on.

So he talked to Amanda Stevens and gave her the information to pass on to Joe.

Senator COCHRAN. And it was basically that Gordon Harvey was doing what?

Ms. FERKO. I cannot give it to you verbatim. Amanda called me at home and explained to me that the gentleman that called said that Gordon Harvey had been given full access to spend all of this time working on his case against Joe Wright, that he didn't have to work on anything else except his case against Joe Wright, he was also being given administrative leave to take trips to either keep his head clear or just so he could concentrate on his case.

And he said, I understand that the hearings are going to start next week, and I think it's very important that Mr. Wright be aware of this.

Senator **Cochran**. I have no other questions.

Chairman **Roth**. Senator Levin.

Senator **Levin**. Thank you, Mr. Chairman.

I would like to go back to that conversation you had with the majority staff about the time that you overheard that phone call. I want to read again to you what Senator Gore read:

> After the call, Joe explained tht he had met Ray at a cocktail party, perhaps a week or so before, and had mentioned something about his father having asked him to get this thing moving. At the party, Joe asked Ray to—he knew that there was a backlog in the field and Ray acknowledged that things were very slow there. They agreed that one would call the other, and Joe said that he mentioned his father had been bugging him.

That is a fairly explicit statement as to what was said after that phone call. You are testifying here, as I understand it, that you did tell majority staff that after the call, Joe explained that he had met Ray at a cocktail party.

Ms. **Ferko**. Yes, sir; I did.

Senator **Levin**. But do you deny telling majority staff that he mentioned something about his father having asked him to do something to get the thing moving?

Ms. **Ferko**. I am sorry, sir, as I said before, it's very difficult to go back and try to put the whole thing together. I remember asking Joe, after the conversation, exactly what was this all about, and he did say that he did meet Mr. Hanzlik at a cocktail party, and the fact was that he was talking about his father asking him if he could get a meeting to take place. That he was bugging him about it, and that there was a backlog. My recollection is that part of it was the phone call, and part of its was what Joe said to me afterward.

Senator **Levin**. I'm not asking you now to go back to 1982. I am asking you to go back a few months to the conversation with the majority staff, because their memo of the conversation with you is that you said that after the call, Joe explained that he had met Ray at a cocktail party and had mentioned something about his father asking him to do something to get the thing moving.

My question to you is, Did you not say that to the majority staff in June of this year?

Ms. **Ferko**. I am sorry, sir. She has it down there. I must have used those words, but there again, what I was saying to her was something I was trying to remember back, you know, so many years, and it is the same thing.

I cannot actually pinpoint did Joe say a whole lot at the party; he said he met him. All of that is not extremely clear to me, and I am sorry, I have to be honest about that.

Senator **Levin**. So if you said this to majority staff, it was erroneous?

Ms. **Ferko**. I was trying to remember. Maybe I remembered erroneously.

Senator **Levin**. You were trying to remember, but you don't have any memory about that actual aspect of it. Are you saying now that you didn't intend to say what you apparently said to majority staff? Is that it?

Ms. FERKO. I was trying to get all those points across to her, but not necessarily in that order.

Senator LEVIN. You did not intend to say to any majority staff that Joe explained he had met Ray at a cocktail party and had mentioned something about his father having asked him to do something to get the thing moving. You did not intend to say that to majority staff in June, yet, in fact, you did?

Mr. FERKO. I am sorry, you are putting me in a very bad position, and I realize it's because of the wording.

Senator LEVIN. I'm trying——

Mr. FERKO. I know. I understand that, sir. What I am trying to say is my recollection is that there was something said at the cocktail party, but not——

Senator LEVIN. I am not trying to ask you——

Senator COCHRAN. Can the witness be permitted to answer the question before the Senator interrupts her? I think that ought to be permitted, Mr. Chairman.

Chairman ROTH. I think the point is well taken.

Ms. FERKO. What I am trying to say is, all of that was said; I did tell her all of those things.

But what actually was said at the cocktail party is not that clear in my mind.

Senator LEVIN. Nor was it when you spoke to majority staff?

Ms. FERKO. No, no, it wasn't. I was trying at that time to go back, just like I'm trying to go back today, and it's very difficult. I remember vividly that he said he met him at a cocktail party; that it was out in the parking lot.

Now, I just naturally assumed that something was said at the cocktail party. That was my assumption, I believe.

Senator LEVIN. Had you been called in as a witness to his conversation prior to his time?

Ms. FERKO. No, sir, I had not.

Senator LEVIN. How many times since this time have you been called in as a witness to this conversation?

Ms. FERKO. I haven't since then.

Senator LEVIN. So this was a rather unusual circumstance?

Ms. FERKO. Unusual, you could use that word. I thought he was just trying to make something very clear. I did not consider it unusual.

Senator LEVIN. But that it never happened before or after?

Ms. FERKO. No, sir.

Senator LEVIN. Did he explain to you why he called you in?

Ms. FERKO. He did not want any misinterpretation that he was asking for favors.

Senator LEVIN. My question to you is, Did he explain to you why he called you in?

Ms. FERKO. He said he wanted me to hear what he was saying to Ray Hanzlik so that there would be no misunderstanding.

Senator GORE. Would the gentleman yield for a brief question? Did he ask you to sit in on the telephone call he placed immediately after the one to Mr. Hanzlik?

Ms. FERKO. What call was that?

Senator GORE. He called, according to the telephone logs, immediately after he called Mr. Hanzlik, he called up Mr. Coty Dupre, who is the president of Canal Refining Co. and on the—one of the officers of the Anchor Gas Corp. If he wanted to have you as a witness to the whole transaction, I am wondering, did he ask you to listen in also on his call back to the oil company to let them know, presumably, I mean——

Ms. FERKO. Mr. Wright did not reach Coty Dupre. He left word.

Senator GORE. That call was not completed?

Ms. FERKO. No, sir.

Senator GORE. What about the calls from Coty Dupre? What about the call that took place 40 minutes before his call to——

Ms. FERKO. the 10:10 call?

Senator GORE. Yes. Did that get through?

Ms. FERKO. That did not get through. You will notice the note there, will call later this afternoon.

Senator GORE. What about 12:15 a.m.?

Ms. FERKO. The 12:15——

Senator GORE. That should be p.m., I guess.

Ms. FERKO. It did not go through, either. It was at 2:25 when they made the contact. That's the last time.

Senator GORE. Did you sit in on that one?

Ms. FERKO. No, sir, I did not.

Senator GORE. So you don't know what was said during that conversation?

Ms. FERKO. No, I do not.

Senator GORE. Thank you for yielding.

Senator LEVIN. Ms. Ferko, you say he has been very careful about recusing himself. Could you estimate how many times has he recused himself from matters involving his firm?

Ms. FERKO. His firm, sir? Or energy matters that might affect oil and gas?

Senator LEVIN. Take both of them.

Ms. FERKO. To my knowledge, he hasn't had to recuse himself from anything regarding his firm. That would mean that there was a case pending, I mean, there was a meeting or something.

Cabinet Council meetings, on natural resources; there are a number of meetings that Mr. Wright cannot attend because they are discussing oil and gas matters.

Senator LEVIN. Would you say that he has recused himself many, many times on energy matters?

Ms. FERKO. Yes, sir, I definitely would. He receives phone calls from people saying, can we talk about this, and he will say "No, no way. Send that down the hall."

Senator LEVIN. You felt, having alerted the staff about the possibility of the appearance of conflict and apparently, he has felt, because of his own decision to recuse himself in these matters, that there is the possibility of any appearance of conflict of interest if he involved himself in a matter involving energy or a firm in which he owns stock; is that your answer?

Ms. FERKO. Yes, sir, he feels very strongly about that.

Senator LEVIN. Did you understand when you heard this conversation that he was asking for something for his firm? Putting aside what he was asking for, it was clear, was it not, that he was asking oil delivered the preceding month from its historical suppliers. See Exhibits 9-22 and Attachment C. However, there is no evidence that took delivery of any of this crude oil at Church Point.

6. In each month of the violation period, invoiced Canal for the corresponding total number of barrels as Canal had invoiced invoices specify the delivery of its crude oil to Canal in two places in Texas - tankage at Port Neches and through in Nederland - and at Church Point, Louisiana in January 1981. charged a flat per barrel price without any charges for gathering, handling or transportation. certified all barrels as stripper crude oil. See Exhibits 24-30 and Attachment C.

7. Canal treated its transactions with as purchases and sales and in each transaction passed its certifications to on each invoice. Exhibits 16-22. likewise, treated these transactions as purchases and sales and passed its stripper certifications to Canal. Exhibits 24-30. No written contracts were entered into between Canal and relating to the purchases and sales described herein. See Exhibit 23. 12/

12/ invoices for October 1980-January 1981 refer to contract numbers; however, Canal's invoices carry no contract reference numbers. Compare Exhibits 16-22 with 24-30.

8. During the violation period, Canal used two methods to account for the transactions with on its purchase and sale ("P&S") journal sheets. In July, August and September 1980, Canal recorded the sales to and purchases from in its P&S journals before "adjustments" to its crude oil receipts. See Exhibits 9-11. From October-January 1981, Canal recorded the purchases from above the "Adjustments" line. Below the "Adjustments" and "Prev. Mos. Ad's" at the bottom of each P&S sheet, Canal recorded its sales to See Exhibits 12-15.

9. Despite the the internal inconsistency in Canal's P&S journals, it consistently reported on its Refiners Monthly Reports in section 4, page 2, the total receipts from historical suppliers and the volumes received from Canal then made "adjustments" to its lower and upper tier receipts to subtract out the volumes sold to and the invoiced adjustments from its historical suppliers for prior months. See, e.g., Exhibit 3, page 2, line 20299 and page 3, line 30299.

10. In the 15-month period preceding the violation period, Canal reported of its crude oil receipts as lower and upper tier oil. In the violation period, this volume was reduced to less than See Attachments D and E. To illustrate the effect, from April 1979 through June 1980, Canal purchased

from 2,867 to 72,660 entitlements each month worth from $33,658.58 to $1,870,268.40. See Attachment F. From July through December 1980, Canal sold from 14,209 to 48,466 entitlements each month worth from $377,248.95 to $1,321,183.16. See Attachment G.

11. In the manner described in paragraphs 5-7 above, Canal switched controlled crude oil certifications from crude oil purchased from its historical suppliers, delivered to its refinery and processed there, for corresponding volumes of crude oil certified stripper and purportedly delivered at Port Neches and Nederland, Texas and Church Point, Louisiana. Canal's transactions with during the reporting period resulted in the transfer of barrels of lower and upper tier certifications for a like number of "stripper" certifications. See Attachment C.

12. The invoiced transactions described in paragraphs 5-7 above allowed Canal to switch virtually all of its controlled crude oil certifications for like volumes of stripper certifications. See Exhibits 2-8, pp. 2 and 3. These transactions were unsupported by contracts, involved no physical movement of Canal's historical crude oil, and provided delivery by at points not contiguous to Canal's refinery (except in January 1981). See Exhibits 24-30. Furthermore,

invoiced Canal for the "stripper" crude oil at prices substantially below the prices Canal paid others for stripper crude oil. For example, in July 1980, Canal purchased stripper crude oil from and for over per barrel. See Exhibit 9, lines 7 and 8. For the same month, billed Canal for stripper at per barrel, below the prices paid by Canal to and See Exhibit 24. In each month of the violation period, Canal paid between and less for stripper than the market prices for that category of crude oil. These discounts totalled $11,316,442. See Attachment I.

13. Pursuant to the instructions to the Refiners Monthly Reports, Canal had an official sign the following certification: "I certify that the information submitted on and with this form is factually correct, complete and in accordance with ERA regulations (Title 10, Code of Federal Regulations) and the instructions to Form ERA-49." L. J. Dilldine, Canal's Chief Accountant, signed the Refiners Monthly Reports for the period July 1980 through January 1981, certifying the accuracy of those reports. See Exhibits 2-8.

V. STATEMENT OF THE CASE

1. Canal entered into the transactions with to eliminate virtually all of its price controlled crude oil certifications in order to improve its entitlements position. See Exhibit 23.

2. Canal's transactions with represented a departure from its customary business practices in that:

a) There were no written contracts relating to these purchases and sales;

b) Canal switched the certifications from refinery receipts of crude oil with for "stripper" certified crude oil located in Texas;

c) was not an historical supplier of crude oil to Canal.

d) Canal's transactions with represented "sales" in volumes significantly exceeding any prior period sales.

3. Canal's transactions with as described herein, did not involve sales or other dispositions of crude oil "without processing" from its inventory. See definition of "crude oil receipts", 10 C.F.R. § 211.62. Canal processed the barrels of crude oil booked into its inventory and actually delivered to its Church Point refinery from its historical suppliers. Canal misreported its crude oil receipts by excluding the certifications of crude oil received from its historical suppliers and improperly adjusting its lower and upper tier crude oil receipts on its Refiners Monthly Reports. See Instructions to the ERA-49, Section V definitions of "Adjusted crude oil receipts" and "Adjustment".

4. Canal's reciprocal purchase and sale transactions with did not involve the physical movement of crude oil, merely the transfer on paper of various tier classifications of crude oil ("tier trading").

5. Canal's reciprocal purchase and sale transactions with in which Canal transferred title to virtually all of its historical receipts of lower and upper tier crude oil (and some certified uncontrolled), in return for matching volumes of discounted stripper crude oil, resulted in Canal receiving a price higher than was lawful under DOE pricing regulations. In these transactions, Canal's sale of price controlled crude oil was dependent upon its receipt of heavily discounted stripper crude oil from The discount which Canal received off the market price of the stripper represents a premium charged by Canal for the certified price controlled oil it was obligated to transfer to

6. Canal was aware of the significance of the discounts it was receiving from since in the same months it had transactions with Canal's records reflect purchases from others of stripper or other uncontrolled crude oil at much higher prices. _See_ Exhibits 9-15.

7. Under Subpart L, Canal's lawful price in transactions involving resales of crude oil was the price it paid for the crude oil plus transportation costs. 10 C.F.R. § 212.183(b).

In the transactions described herein, Canal received for its domestic controlled crude oil not only the purchase price but an additional consideration of the difference between the price paid by Canal for the stripper and its market value.

8. Canal's transactions during the seven month violation period evidence a pattern and practice designed to obtain prices higher than permitted through the use of premiums.

9. Canal used the transactions with to obtain large volumes of discounted stripper crude oil, which was exempt from entitlements purchase obligations, to improve its entitlements position. Compare Attachments F and G. The economic reality of these transactions gave Canal a cost advantage under the Entitlements Program over other refiners which paid for and reported their uncontrolled crude oil at market prices. To illustrate: Assume that the total universe of crude oil available per month is 200 barrels, and that physically all the crude is of one type. Assume further that the only regulatory categories of crude are old oil priced at $5.50 per barrel, and exempt stripper well crude oil priced at $13.50 per barrel, and that both are produced in equal quantities. Example 1 demonstatrates how a refiner's true cost of crude oil was determined.

Example 1

(Cost)/Benefit	Refiner A	Refiner B
Old Crude Oil Barrels	60	40
(Cost)	$(330.00)	$(220.00)
Stripper Crude Oil Barrels	40	60
(Cost)	$(540.00)	$(810.00)
Entitlements:		
Total Issued	50	50
Total OOR*/	60	40
OOR (Excess)/ Shortfall	(10)	10
(PREQ)/SREQ	(10)	10
Price	$ 8.00	$ 8.00
(Cost)/Benefit	(80.00)	80.00
Totals	$ 950.00**	$ 950.00**

*/ Old oil receipts

**/ $950.00 ÷ 100 barrels = $9.50/bbl. WAC.

In Example 1, Refiner A was required to purchase (PREQ) 10 entitlements because its OOR exceeded the national ratio of old crude oil to stripper crude oil (50-50) by 10%. Conversely, Refiner B was required to sell (SREQ) 10 entitlements because its OOR were 10% less than the national ratio. The post-entitlements cost for each refiner was $950.00 for the crude oil or $9.50 per barrel, regardless of the mix of old and stripper refined by each refiner.

If, however, one refiner was able to purchase stripper well crude oil for only $13.00 per barrel while all other refiners continued to pay $13.50 per barrel, that refiner would realize a competitive benefit. This is illustrated by Example 2, based again upon the assumptions that there are only two refiners, a total universe of 200 barrels of crude oil available, and that each refiner refines 100 barrels composed of 50 barrels of old oil and 50 barrels of exempt stripper well crude oil. Example 2 shows that Refiner A would have lower crude oil costs by $25 than that of Refiner B:

Example 2

(Cost)/Benefit	Refiner A	Refiner B
Old Crude Oil	$(275.00)	$(275.00)
Stripper Well	(650.00)	(675.00)
Entitlements:		
Total Issued	50	50
Total OOR	50	50
OOR (Excess)/ Shortfall	-0-	-0-
(PREQ)/SREQ	-0-	-0-
Price	$ 7.75	$ 7.75
(Cost)/Benefit	-0-	-0-
Total (cost)	$(925.00) */	$(950.00) **/

*/ $925.00 ÷ 100 barrels = $9.25/bbl. WAC.

**/ $950.00 ÷ 100 barrels = $9.50/bbl. WAC.

10. Canal engaged in a course of conduct over the seven-month period, through the use of reciprocal purchase and sale transactions, in which Canal improperly reported the certifications received from Canal's practices resulted in the subversion of the cost equalization goals of Section 4(b)(1)(F) of the EPAA and the regulations promulgated pursuant thereto. By engaging in these transactions, Canal gained a cost advantage over other domestic refiners and was, therefore, unjustly enriched through the operation of the Entitlements Program as illustrated in paragraph 9 above.

11. Canal's conduct as described herein was designed to and resulted in a circumvention and contravention of the pricing regulations, the certification requirements and the Entitlements Program. Canal should not be allowed to retain any benefits resulting from it unlawful conduct.

12. ERA has recalculated Canal's entitlements position to determine the value of the entitlements benefit to Canal which resulted from its misreporting of its lower and upper tier crude oil receipts. ERA calculated Canal's entitlements position as if the transactions had not occurred and Canal had retained and reported its lower and upper tier crude oil receipts certified by its historical suppliers. Using this method, ERA has determined that Canal avoided $12,546,305.70

in entitlements purchases, before interest for the six-month period, July-December 1980. 13/ See Attachment H.

13. ERA has determined the value of the discounts received by Canal by taking the difference between the stripper crude oil's market value and the discounted price paid by Canal. ERA's market value prices were compiled from data certified on the FEA P124-M-1 form and its successor, the ERA 182 form, for July - November 1980. For December 1980 and January 1981, ERA used the entitlements weighted average price (WAP) data from the ERA-49 reports for December 1980. Since Canal certified that it sold Light Louisiana Sweet crude oil to ERA has extracted the weighted average prices reported to DOE by first purchasers, on the P-124 and 182 forms noted, in first sales of Louisiana crude oils through November 1980. See Attachment I. The discount was multiplied by the number of barrels Canal received from during the violation period to determine the price violation. The violation amount totals $11,316,442, exclusive of interest. See Attachment I.

14. ERA seeks to recover all of the benefits obtained by Canal through its unlawful transactions. Since the entitlements calculation is the greater amount, the pricing overcharges will

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13/ No entitlements list has been issued for January 1981 and thus, that month is excluded from the calculation of this violation amount.

be fully recovered by requiring Canal to repay the larger sum. In this manner, Canal will not be allowed to benefit from its unlawful conduct and full restitution will be effectuated.

VI. FINDINGS OF FACT

1. Canal is an Oklahoma corporation with corporate offices at 114 East Fifth Street, Tulsa, Oklahoma. Canal owned and operated a refinery in Church Point, Louisiana with a refining capacity of 7,585 barrels of crude oil per day during the violation period, July 1980 through January 27, 1981.

2. Canal engaged in resales of crude oil from its refinery inventory during the violation period. Canal did not operate a separate reselling business during these months.

3. During the violation period Canal purchased barrels of lower and upper tier crude oil from its historical suppliers and refined that crude oil at its Church Point refinery. Attachment B. Canal entered into certain reciprocal purchase and sale transactions with in which Canal transferred barrels of lower tier crude oil certifications, barrels of upper tier crude oil certifications and barrels of uncontrolled crude oil certifications received from its historical suppliers in return for like certifications of stripper crude oil. See Exhibits 9-22, 24-30 and Attachment C. The price controlled

volumes totalled barrels of the total volume of barrels transferred to

4. In purchase and sale transactions between Canal and Canal transferred almost all of its controlled crude oil certifications conditioned upon its receipt of like volumes of crude oil certified as stripper from at substantial discounts below market prices. Attachments C and I. Canal entered into these transactions solely to improve its entitlements position. See Exhibit 23. These certification switches resulted in Canal reducing its reported controlled crude oil receipts from of its total receipts in the prior 15-month period to less than in the seven-month violation period. See Attachments D and E.

5. In the purchase and sale transactions described in paragraphs 3 and 4 above, Canal received as consideration for the sale of its price controlled crude oil the purchase price charged for those barrels and the difference between the uncontrolled crude oil's weighted average cost and the discounted price paid to This difference represents extra consideration to Canal for the controlled crude oil it "sold" to

6. Canal booked the purchases from into its refinery inventory at the prices charged and tier certified by and reduced its inventory of crude oil concurrently in July.

August and September 1980. From October 1980 - January 1981, Canal booked the sales to as adjustments to its crude oil receipts in the month the transactions occurred. Canal improperly reported these sales as adjustments to its crude oil receipts on its Refiners Monthly Reports during the violation period.

7. Canal certified the accuracy of its Refiners Monthly Reports by the signature of its Chief Accountant, L. J. Dilldine, to the following certification: "I certify that the information submitted on and with this form is factually correct, complete and in accordance with ERA regulations (Title 10, Code of Federal Regulations) ...." See Exhibits 2-8. Canal has not corrected its Refiners Monthly Reports, as amended, to properly reflect the volumes and tiers of crude oil it booked into refinery inventory and processed.

8. By improperly reporting on its Refiners Monthly Reports the tier certifications received and the discounted prices paid in the reciprocal purchases from Canal received a competitive cost advantage over other refiner-participants in the Entitlements Program and avoided certain entitlements purchase obligations.

9. Canal, by engaging in the foregoing transactions and reporting the volumes of exempt categories of crude oil received

from for the period July - December 1980, at discounted prices, reduced its entitlements purchase obligations by $12,546,305.70. See Attachment H.

10. The discounts received by Canal in these reciprocal transactions during the violation period were calculated by taking the difference between the price paid by Canal for the uncontrolled barrels and subtracting it from the weighted average price for the tier of crude oil involved, multiplied by the volumes received each month. These discounts total $11,316,442, exclusive of interest. See Attachment I.

VII. CONCLUSIONS OF LAW

1. Since the industrial plant operated by Canal in Church Point, Louisiana during the violation period, July 1980 through January 27, 1981, processed crude oil feedstock and manufactured refined petroleum products, it constituted a "refinery" as that term was defined in 10 C.F.R. § 211.62.

2. Since Canal owned, operated or controlled the operations of one or more "refineries" during the reporting period, it was a "refiner" under 10 C.F.R. § 211.62. As a refiner, Canal engaged in resales of a "covered product," i.e. crude oil, as that term was defined in 10 C.F.R. § 212.31. However, Canal did not operate a crude oil reselling business and was not a crude oil reseller subject to the provisions of 10 C.F.R. § 212.183(a).

3. As a "refiner", Canal was subject to the Administrative Procedures and Sanctions (10 C.F.R. Part 205), the Mandatory Petroleum Allocation Regulations (10 C.F.R. Part 211), the Mandatory Petroleum Price Regulations (10 C.F.R. Part 212), and other applicable provisions of law.

4. Canal's crude oil receipts consisted of "the volume of crude oil booked into its refineries in accordance with accounting practices generally accepted and consistently and historically applied by the refiner concerned ...." 10 C.F.R. § 211.62.

5. As a refiner, Canal was required to participate in the Entitlements Program and to file Refiners Monthly Reports of its crude oil receipts, adjustments thereto, and other information as requested. Canal, during the period July 1980 - January 1981, did not properly report its lower and upper tier crude oil receipts and adjustments thereto in accordance with the instructions to the Refiners Monthly Report. 10 C.F.R. § 211.66(b) and (h).

6. In resales of crude oil, Canal was allowed to charge the purchase price paid by it for the crude oil, consistent with its historical accounting practice, plus transportation cost. 10 C.F.R. § 212.183(b). Canal, in resales of crude oil to from July 1980 through January 27, 1981, charged prices in excess of its purchase price plus transportation in violation of 10 C.F.R. §§ 212.183(b) and 212.10(a).

7. Canal's reciprocal purchase and sale transactions with as described in Findings of Fact 3-6, constituted a means to obtain prices higher than permitted under Subpart L, Part 212 of the DOE regulations, in violation of 10 C.F.R. § 210.62(c).

8. As a seller of crude oil, Canal was required to certify in each sale of crude oil the regulatory tier of the crude oil sold in accordance with 10 C.F.R. § 212.131(b). Canal's detachment of the controlled certifications from its refinery crude oil receipts and attachment of them to invoiced sales to as described in Findings of Fact 2 and 3, violated the certification requirements of 10 C.F.R. § 212.131(b)(1).

9. Canal, 1) by improperly accounting for and misreporting its controlled crude oil receipts on its Refiners Monthly Reports; 2) detaching the certifications from its historical crude oil receipts and invoicing these certifications to in exchange for exempt certifications; and 3) charging prices in excess of those allowed under DOE regulations, engaged in practices which circumvented or contravened or resulted in the circumvention and contravention of the pricing regulations, the Entitlements Program and the certification regulations, all in violation of 10 C.F.R. § 205.202.

10. ERA has recalculated Canal's entitlements obligation using the certifications Canal received from its historical crude

oil suppliers. Canal, by improperly reporting its crude oil receipts and runs to stills, received $12,546,305.70 in excess entitlements benefits. Attachment H, column 10.

11. ERA has calculated Canal's pricing violations to total $11,316,442, exclusive of interest. See Attachment I.

VIII. PROPOSED REMEDIAL ORDER

1. In accordance with the terms set forth herein, Canal shall refund the violation amount of $12,546,305.70, plus interest on this amount of $10,580,668 accrued through April 30, 1985, plus further appropriate interest pursuant to paragraph 2 below. The computation of interest from October 1, 1980 through April 30, 1985 appears on Attachment J.

2. Canal shall compute interest accruing after April 30, 1985, on the unrefunded portion of the refund amount (exclusive of interest) at the rate equal to the average prime rate for the then current calendar quarter. The applicable prime rate shall be the arithmetic mean, to the nearest one hundreth of one percent, of the prime rate values published in the Federal Reserve Bulletin for the fourth, third, and second months preceding the first month of the calendar quarter. The interest thus computed shall be compounded quarterly.

3. Canal shall, on or before twenty (20) days after the issuance of the Remedial Order, deliver a certified check made payable to the United States Department of Energy in the amount

of $23,126,974 plus further interest accrued pursuant to paragraph 2 above between May 1, 1985, and the date of issuance of this Order as a final Remedial Order. Delivery shall be to the Office of the Controller, Office of Washington Financial Service, Cash Management Division, P.O. Box 500, Germantown, Maryland 20874-0500. These monies shall be deposited in a suitable account for ultimate disposition by DOE.

4. Because Canal's conduct resulted in violations of the pricing regulations and circumvention and contravention of the Entitlements Program, as set forth in Section VII, these violations will be remedied by a full refund of the amount by which Canal reduced its entitlements obligations. However, if Canal is found to have violated only the pricing regulations, it shall refund the amount of $11,316,442 plus interest on this amount of $10,035,199 accrued through April 30, 1985, in accordance with the terms set forth herein. The computation of interest accrued on the above amount is set forth in Attachment K. Interest after that date shall be computed as set forth in paragraph 2 above.

5. If Canal is found to have violated only the pricing regulations, it shall, on or before twenty (20) days after the issuance of the Remedial Order, deliver a certified check made payable to the United States Department of Energy in the amount of $21,351,641 plus further interest accrued

pursuant to paragraph 2 above between May 1, 1985, and the date of issuance of this Order as a final Remedial Order. Delivery shall be to the Office of the Controller, Office of Washington Financial Service, Cash Management Division, P.O. Box 500, Germantown, Maryland 20874-0500. These monies shall be deposited in a suitable account for ultimate disposition by DOE.

IX. REVIEW PROCEDURES

The procedures for administrative review of this Proposed Remedial Order (PRO) are found 10 C.F.R. Part 205, Subpart O (§ 205.190 *et seq.*). Some of these procedures are summarized below. Canal should, however, fully review the requirements of Subpart O if Canal wishes to contest the issuance of the PRO as a final order.

A. Notice of Objection

If Canal wishes to contest issuance of the PRO as a final order, Canal must file a Notice of Objection within 15 days of publication of notice of this PRO in the *Federal Register*. The Notice of Objection must briefly describe how Canal would be aggrieved by the issuance of the PRO as a final order and must state Canal's intention to file a Statement of Objections. If Canal fails to file a timely Notice of Objection, Canal shall be deemed to have admitted the findings of fact and conclusions of law in the PRO and the PRO may be issued as a final order without further proceedings. A full statement of procedural requirements in connection with the Notice of Objection is provided in 10 C.F.R. § 205.193.

B. Statement of Objections

A Statement of Objections to a PRO must be filed within forty (40) days after service of the Notice of Objection. The Statement of Objections must set forth the basis for the objections to the issuance of the PRO as a final order and must otherwise meet the requirements of 10 C.F.R. § 205.196.

C. Motions and Requests

Discovery may be conducted in conjunction with remedial order proceedings in certain cases. See 10 C.F.R. § 205.198. A Motion for Discovery must show why discovery is necessary in order to obtain relevant and material evidence and why discovery would not unduly delay the proceedings. If Canal intends to file a Motion for Discovery, it must do so at the same time it files the Statement of Objections.

In addition, an Evidentiary Hearing may be convened in conjunction with remedial order proceedings, as appropriate, pursuant to section 205.199. A Motion for Evidentiary Hearing must show that there is a genuine dispute over relevant and material issues of fact that would be more effectively resolved by personal presentation with opportunity for cross examination than through submission of written material. If Canal intends to file a Motion for Evidentiary Hearing, it must do so at the same time it files the Statement of Objections. Canal is entitled, as a matter of right, to a hearing to present oral argument regarding the PRO, whether or not an evidentiary hearing is requested or convened, provided Canal makes a timely request for such a hearing. See 10 C.F.R. § 205.199A.

All notices, statements, motions, requests and replies in this proceeding must be filed with:

Office of Hearings and Appeals
U.S. Department of Energy
1000 Independence Avenue S.W.
Washington, D.C. 20585

In addition, a copy of each filing must be submitted to:

Carl A. Corrallo
Chief Counsel for
Administrative Litigation
Economic Regulatory Administration (RG-15)
U.S. Department of Energy
1000 Independence Avenue, S.W.
Washington, D.C. 20585

As required by Section 205.196(c), the copy of the Statement of Objections which Canal files with the Office of Hearings and Appeals must include a copy of the PRO and any relevant workpapers or supplemental information previously provided by ERA.

D. Recordkeeping Requirements

You are reminded of your obligation not to destroy evidence relevant to the litigation commenced by the issuance of this Proposed Remedial Order and its publication in the *Federal Register*.

In addition, in accord with 10 C.F.R. § 210.1(b)(1) of the final rule on Reduction of Recordkeeping Requirements, 50 Fed. Reg. 4963 (February 5, 1985), you are hereby required to retain records of all transactions necessary to demonstrate compliance with 10 C.F.R. Parts 210, 211 and 212.

Upon final resolution of this litigation, you will be notified in writing by the Department of Energy which records, if any, you must retain and for what period of time.

E. Penalties and Sanctions

Failure to comply with this order after it becomes effective shall constitute a separate violation for each day that such noncompliance continues and shall subject Canal to the penalties and sanctions provided in 10 C.F.R. § 205.203. In addition, violations of provisions of the Mandatory Petroleum Allocation Regulations as described in this order, or other unlawful conduct, subjects the violator to various civil and/or criminal penalties and sanctions, including, but not necessarily limited to, those described at 15 U.S.C. § 754. In this regard, 15 U.S.C.

§ 754(a)(3)(A)(i) provides for the imposition of a civil penalty of not more than $20,000 per violation. 10 C.F.R. § 205.203.

Issued this 18th day of April, 1985 in Washington, D.C.

Avrom Landesman
Director
Office of Enforcement Programs
Economic Regulatory Administration

Attachments

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DECLARATION

I, William C. Lynch, employed by the United States Department of Energy as an auditor, am primarily knowledgeable about the facts of the case set out in the Proposed Remedial Order (Case No. N00S98105) directed against Canal Refining Company. I hereby declare that, to the best of my knowledge and belief, the findings of fact contained in the Proposed Remedial Order are correct.

Date April 17, 1985

William C. Lynch
William C. Lynch
Office of Enforcement Programs
Economic Regulatory Administration
U.S. Department of Energy

Canal Refining Company
Case No. N00S98105
Attachments to PRO

Number	Description
A	Barrels of Stripper Crude Oil Reported by Canal on its Refiners Monthly Reports, July 1980 - January 1981.
B	Canal Purchases of Lower and Upper Tier Crude Oil from Historical Suppliers, July - December 1980.
C	Schedule of Invoiced Sales of Crude Oil between Canal and July 1980 - January 1981.
D	Crude Oil Receipts as Reported by Canal on the Refiners Monthly Reports, April 1979 - June 1980
E	Crude Oil Receipts as Reported by Canal on the Refiners Monthly Reports, July 1980 - January 1981.
F	Summary of Canal's Entitlements Purchases, April 1979 - June 1980.
G	Summary of Canal's Entitlements Sales, July - December 1980.
H	Violation Amount for Improperly Reported Crude Oil Refinery Receipts, July - Decmber 1980
I	Calculation of Pricing Violation Amount, July - January 1981.
J	Interest Schedule for Violation Amount for Improperly Reported Crude Oil Refinery Receipts, October 1980 - April 1985.
K	Interest Schedule for Pricing Violation Amount, August 1980 - April 1985.

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ATTACHMENT A

CANAL REFINING COMPANY

BARRELS OF STRIPPER CRUDE OIL REPORTED BY CANAL ON ITS REFINERS MONTHLY REPORTS (ERA-49)

Month/ Year	No. of BBLS
07/80	
08/80	
09/80	
10/80	
11/80	
12/80	
01/81	
Total	

ATTACHMENT B

CANAL REFINING COMPANY

PURCHASES OF LOWER AND UPPER TIER CRUDE OIL FROM ITS HISTORICAL SUPPLIERS

Historical Supplier	July 1980		August 1980		September 1980		October 1980		November 1980		December 1980		January 1981	
	Lower Tier bbls	Upper Tier bbls	Lower Tier bbls	Upper Tier bbls	Lower Tier bbls	Upper Tier bbls	Lower Tier bbls	Upper Tier bbls	Lower Tier bbls	Upper Tier bbls	Lower Tier bbls	Upper Tier bbls	Lower Tier bbls	Upper Tier bbls

TIERS
LOWER
UPPER

GRAND TOTALS: LT; UT; GRAND TOTAL: ________ bbls.

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ATTACHMENT C

CANAL REFINING COMPANY

Month/ Year	Invoices: Canal to Lower Tier Crude Oil (bbls)	Upper Tier Crude Oil (bbls)	Domestic Uncontrolled Crude Oil (bbls)	Total (bbls)	Invoices: to Canal Stripper Crude Oil (bbls)
07/80					
08/80					
09/80					
10/80					
11/80					
12/80					
Sub-Totals					
01/81					
TOTALS					

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ATTACHMENT D

CANAL REFINING COMPANY

CRUDE OIL RECEIPTS AS REPORTED BY CANAL ON ITS ERA-49'S FOR THE PERIOD APRIL 1979 THROUGH JUNE 1980

Col. 1 Month/ Year	Col. 2 Lower Tier (bbls)	Col. 3 Upper Tier (bbls)	Col. 4 Controlled (bbls)	Col. 5 Exempt (bbls)	Col. 6 Total Receipts (bbls)
04/79					
05/79					
06/79					
07/79					
08/79					
09/79					
10/79					
11/79					
12/79					
01/80					
02/80					
03/80					
04/80					
05/80					
06/80					
Totals					

NOTE: 1/ Columns 2 and 3 equal column 4 (total barrels of controlled crude oil refinery receipts).

2/ Total barrels of controlled crude oil receipts (column 4 of barrels) is about percent of the total crude oil refinery receipts of barrels. (Column 4 divided by column 6.)

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Attachment E

CANAL REFINING COMPANY

CRUDE OIL RECEIPTS AS REPORTED BY CANAL ON ITS ERA-49'S FOR THE PERIOD JULY 1980 THROUGH JANUARY 1981

Col. 1 Month/ Year	Col. 2 Lower Tier (bbls)	Col. 3 Upper Tier (bbls)	Col. 4 Controlled (bbls)	Col. 5 Exempt (bbls)	Col. 6 Total Receipts (bbls)
07/80					
08/80					
09/80					
10/80					
11/80					
12/80					
Sub-Totals					
01/81					
Totals					

NOTES: 1/ Columns 2 and 3 equal column 4 (total barrels of controlled crude oil refinery receipts).

2/ Total barrels of controlled crude oil receipts (column 4 of barrels) is about percent of the total crude oil refinery receipts of barrels. (Column 4 divided by column 6.)

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ATTACHMENT F

SUMMARY OF CANAL'S ENTITLEMENT PURCHASES AND THEIR VALUE DURING THE PERIOD APRIL 1979 THROUGH JUNE 1980

Col. 1	Col. 2	Col. 3	Col. 4
Month/ Year	No. of Entitlements Purchased	Entitlement Price	Total Value of Purchases
04/79	9,798	$10.53	$ 103,172.94
05	2,867	11.74	33,658.58
06	44,258	13.70	606,334.60
07	59,096	16.01	946,126.96
08	50,821	17.26	877,170.46
09	25,541	17.97	458,971.77
10	72,330	18.27	1,321,469.10
11	72,805	20.12	1,464,836.60
12/79	79,924	21.91	1,751,134.84
01/80	55,148	23.53	1,297,632.44
02	48,429	24.70	1,196,196.30
03	28,220	25.26	712,837.20
04	72,660	25.74	1,870,268,40
05	26,493	27.39	725,643.27
06/80	60,658	27.32	1,657,176.56
TOTALS	709,048		$15,022,630.02

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ATTACHMENT G

CANAL REFINING COMPANY

SUMMARY OF CANAL'S ENTITLEMENT SALES AND THEIR VALUE DURING THE PERIOD JULY 1980 THROUGH DECEMBER 1980

Col. 1	Col. 2	Col. 3	Col. 4
Month/ Year	No. of Entitlement Sold	Entitlement Price	Total Value of Sales
07/80	48,466	$27.26	$1,321,183.16
08	35,014	26.86	940,476.04
09	16,820	26.07	438,497.40
10	28,526	26.08	743,958.08
11	14,209	26.55	377,248.95
12/80	16,632	27.06	450,061.92
TOTALS	159,667		$4,271,425.55

ATTACHMENT H

CANAL REFINING COMPANY

VIOLATION AMOUNT FOR IMPROPERLY REPORTED CRUDE OIL REFINERY RECEIPTS FOR THE PERIOD JULY 1980 THROUGH DECEMBER 1980

	Volume of Lower Tier Crude Oil (bbls)			Volume of Upper Tier Crude Oil (bbls)					
Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6	Col. 7	Col. 8	Col. 9	Col. 10
Month/ Year	Reported by Canal	Per ERA Review	Difference	Reported by Canal	per ERA Review	Difference	Net Crude Receipts Difference	Entitle-ment Price	Violation Amount
Jul 1980		51,218			68,246		101,593	$27.26	$ 2,769,425.10
Aug 1980		40,985			46,199		68,974	26.86	1,852,641.60
Sep 1980		41,678			59,941		72,408	26.07	1,887,676.50
Oct 1980		28,261			87,815		88,033	26.08	2,295,900.60
Nov 1980		26,039			75,917		65,536	26.55	1,739,980.80
Dec 1980		40,182			51,593		73,935	27.06	2,000,681.10
TOTALS		228,363			389,711				$12,546,305.70

NOTE:

Net Crude Receipts Difference = Column 8 equals the sum of Column 4 plus the result of multiplying Column 7 times a factor to convert upper tier crude oil to deemed old oil pursuant to 10 C.F.R. § 211.67(b)(2)

Entitlement Price = The price at which entitlements are purchased and sold, as computed in accordance with 10 C.F.R. § 211.67(1)(4).

Violation Amount = The Net Crude Receipts Difference times the Entitlement Price.

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ATTACHMENT I

CANAL REFINING COMPANY
CALCULATION OF PRICING VIOLATION

Col. 1	Col. 2	Col. 3	Col. 4	Col. 5	Col. 6
Month/ Year	Volume	Price Paid by Canal	WAP	Difference	*Violation Amount
07/80			$38.66		$2,644,362
08/80			38.11		1,780,640
09/80			35.87		1,484,400
10/80			35.83		2,165,040
11/80			35.11		1,515,600
12/80			32.75		992,000
01/81			32.75		734,400
Totals					$11,316,442

* Column 5 multiplied by column 2.

** bbls. prorated over 27 days = bbls. This bbls. was multiplied by $ to arrive at the violation amount for January 1981.

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ATTACHMENT J

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                    INTEREST CALCULATIONS FOR CANAL REFINING COMPANY      10:35 THURSDAY, APRIL 11, 1985   1

OBS    DATE      OVERCHARGE    INTEREST     CUMULATIVE       PERIODIC      CUMULATIVE     CUMULATIVE
                             . RATE         OVERCHARGE($)    INTEREST($)   INTEREST($)    TOTAL($)

  1   10/31/80    2769425     0.0099710      2769425          27614          27614            .
  2   11/30/80    1852642     0.0096493      4622067          44600          72214            .
  3   12/31/80    1887677     0.0099710      6509743          64908         137122            .
  4   01/31/81    2295901     0.0119159      8805644         106561         243683            .
  5   02/28/81    1739981     0.0107627     10545625         114976         358659            .
  6   03/31/81    2000681     0.0119159     12546306         151134         509793            .
  7   04/30/81          0     0.0164219     12546306         214406         724199            .
  8   05/31/81          0     0.0169693     12546306         221553         945752            .
  9   06/30/81          0     0.0164219     12546306         214406        1160158            .
 10   07/31/81          0     0.0155170     12546306         212683        1372841            .
 11   08/31/81          0     0.0155170     12546306         212683        1585524            .
 12   09/30/81          0     0.0150164     12546306         205822        1791347            .
 13   10/31/81          0     0.0172496     12546306         247319        2038665            .
 14   11/30/81          0     0.0166932     12546306         239341        2278006            .
 15   12/31/81          0     0.0172496     12546306         247319        2525324            .
 16   01/31/82          0     0.0156784     12546306         236298        2761623            .
 17   02/28/82          0     0.0141611     12546306         213431        2975054            .
 18   03/31/82          0     0.0156784     12546306         236298        3211352            .
 19   04/30/82          0     0.0131671     12546306         207483        3418835            .
 20   05/31/82          0     0.0136060     12546306         214399        3633234            .
 21   06/30/82          0     0.0131671     12546306         207483        3840717            .
 22   07/31/82          0     0.0140137     12546306         229643        4070360            .
 23   08/31/82          0     0.0140137     12546306         229643        4300003            .
 24   09/30/82          0     0.0135616     12546306         222235        4522238            .
 25   10/31/82          0     0.0133512     12546306         227886        4750124            .
 26   11/30/82          0     0.0129285     12546306         220535        4970659            .
 27   12/31/82          0     0.0133512     12546306         227886        5198545            .
 28   01/31/83          0     0.0107184     12546306         190196        5388741            .
 29   02/28/83          0     0.0096811     12546306         171790        5560530            .
 30   03/31/83          0     0.0107184     12546306         190196        5750726            .
 31   04/30/83          0     0.0092137     12546306         168583        5919309            .
 32   05/31/83          0     0.0095208     12546306         174203        6093512            .
 33   06/30/83          0     0.0092137     12546306         168583        6262095            .
 34   07/31/83          0     0.0089178     12546306         167730        6429825            .
 35   08/31/83          0     0.0089178     12546306         167730        6597555            .
 36   09/30/83          0     0.0086301     12546306         162319        6759874            .
 37   10/31/83          0     0.0090282     12546306         174300        6934174            .
 38   11/30/83          0     0.0087370     12546306         168678        7102852            .
 39   12/31/83          0     0.0090282     12546306         174300        7277152            .
 40   01/31/84          0     0.0093425     12546306         185200        7462352            .
 41   02/29/84          0     0.0084384     12546306         167277        7629630            .
 42   03/31/84          0     0.0093425     12546306         185200        7814830            .
 43   04/30/84          0     0.0090411     12546306         184087        7998917            .
 44   05/31/84          0     0.0093425     12546306         190223        8189140            .
 45   06/30/84          0     0.0090411     12546306         184087        8373227            .
 46   07/31/84          0     0.0100559     12546306         210365        8583591            .
 47   08/31/84          0     0.0100559     12546306         210365        8793956            .
 48   09/30/84          0     0.0097315     12546306         203579        8997535            .
 49   10/31/84          0     0.0109307     12546306         235489        9233023            .
 50   11/30/84          0     0.0105781     12546306         227893        9460916            .
 51   12/31/84          0     0.0109307     12546306         235489        9696405            .
 52   01/31/85          0     0.0105655     12546306         235005        9931410            .
 53   02/28/85          0     0.0095430     12546306         212262       10143672            .
 54   03/31/85          0     0.0105655     12546306         235005       10378677            .
 55   04/30/85          0     0.0088110     12546306         201991       10580668     23126974
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ATTACHMENT K-1

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                    INTEREST CALCULATIONS FOR CANAL REFINING COMPANY      13:05 WEDNESDAY, APRIL 17, 1989

OBS     DATE      OVERCHARGE    INTEREST     CUMULATIVE        'ERIODIC       CUMULATIVE     CUMULATIVE
                                RATE         OVERCHARGE($)     INTEREST($)    INTEREST($)    TOTAL($)

  1   08/31/80     2644362     0.0154745      2644362           40920          40920           .
  2   09/30/80     1780640     0.0149753      4425002           66266         107186           .
  3   10/31/80     1484400     0.0099710      5909402           59991         167177           .
  4   11/30/80     2165040     0.0096493      8074442           78947         246124           .
  5   12/31/80     1515600     0.0099710      9590042           96691         342815           .
  6   01/31/81      992000     0.0119159     10582042          130179         472994           .
  7   02/28/81      734400     0.0107627     11316442          125486         598480           .
  8   03/31/81           0     0.0119159     11316442          138930         737410           .
  9   04/30/81           0     0.0164219     11316442          197947         935358           .
 10   05/31/81           0     0.0169693     11316442          204546        1139903           .
 11   06/30/81           0     0.0164219     11316442          197947        1337851           .
 12   07/31/81           0     0.0155170     11316442          196356        1534207           .
 13   08/31/81           0     0.0155170     11316442          196356        1730564           .
 14   09/30/81           0     0.0150164     11316442          190022        1920586           .
 15   10/31/81           0     0.0172496     11316442          228333        2148920           .
 16   11/30/81           0     0.0166932     11316442          220968        2369887           .
 17   12/31/81           0     0.0172496     11316442          228333        2598221           .
 18   01/31/82           0     0.0156784     11316442          218159        2816380           .
 19   02/28/82           0     0.0141611     11316442          197047        3013426           .
 20   03/31/82           0     0.0156784     11316442          218159        3231585           .
 21   04/30/82           0     0.0131671     11316442          191556        3423141           .
 22   05/31/82           0     0.0136060     11316442          197941        3621082           .
 23   06/30/82           0     0.0131671     11316442          191556        3812638           .
 24   07/31/82           0     0.0140137     21316442          212014        4024652           .
 25   08/31/82           0     0.0140137     11316442          212014        4236666           .
 26   09/30/82           0     0.0135616     11316442          205175        4441842           .
 27   10/31/82           0     0.0133512     11316442          210393        4652234           .
 28   11/30/82           0     0.0129205     11316442          203606        4855840           .
 29   12/31/82           0     0.0133512     11316442          210393        5066232           .
 30   01/31/83           0     0.0107184     11316442          175595        5241828           .
 31   02/28/83           0     0.0096811     11316442          158602        5400430           .
 32   03/31/83           0     0.0107184     11316442          175595        5576025           .
 33   04/30/83           0     0.0092137     11316442          155642        5731667           .
 34   05/31/83           0     0.0095208     11316442          160830        5892497           .
 35   06/30/83           0     0.0092137     11316442          155642        6048140           .
 36   07/31/83           0     0.0089178     11316442          154854        6202994           .
 37   08/31/83           0     0.0089178     11316442          154854        6357848           .
 38   09/30/83           0     0.0086301     11316442          149859        6507706           .
 39   10/31/83           0     0.0090282     11316442          160920        6668627           .
 40   11/30/83           0     0.0087370     11316442          155729        6824356           .
 41   12/31/83           0     0.0090282     11316442          160920        6985276           .
 42   01/31/84           0     0.0093425     11316442          170983        7156259           .
 43   02/29/84           0     0.0084384     11316442          154436        7310696           .
 44   03/31/84           0     0.0093425     11316442          170983        7481679           .
 45   04/30/84           0     0.0090411     11316442          169956        7651635           .
 46   05/31/84           0     0.0093425     11316442          175621        7827255           .
 47   06/30/84           0     0.0090411     11316442          169956        7997211           .
 48   07/31/84           0     0.0100559     11316442          194216        8191427           .
 49   08/31/84           0     0.0100559     11316442          194216        8385643           .
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 51   10/31/84           0     0.0109307     11316442          217412        8791006           .
 52   11/30/84           0     0.0105781     11316442          210398        9001404           .
 53   12/31/84           0     0.0109307     11316442          217412        9218816           .
 54   01/31/85           0     0.0105655     11316442          216965        9435781           .
 55   02/28/85           0     0.0095430     11316442          195968        9631749           .
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                                  RATE        OVERCHARGE($)   INTEREST($)   INTEREST($)   TOTAL($)
56   03/31/85        0         0.0105655       11316442        216965        9848714
57   04/30/85        0         0.0088110       11316442        186485       10035199     21351641
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Attachment 1
Public Disclosure Copy

LAW OFFICES
OF
R. N. DUNAGAN

SUITE [illegible]
[illegible] PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. [illegible]

TELEPHONE [illegible]
CABLE ADDRESS "DUNLEGAL"

August 6, 1984

Mr. William C. Lynch
Supervisory Auditor
Office of Special Counsel
Economic Regulatory Administration
Department of Energy
Washington, D.C. 74103

Re: Case No. N00598105

Dear Mr. Lynch:

In the attached letter dated June 19, 1984, you asked Canal Refining Company (Canal) to provide the Economic Regulatory Administration of the Department of Energy with copies of crude oil purchase and sale records for a 21-month period, from April 1979 through December 1980. In addition, you asked for a description of crude oil delivery, transportation method, and storage capacity. This letter is our initial response to your June 19 letter.

Enclosed are copies of what we believe to be all purchase invoices and sales invoices for the period April 1979 through December 1980. Also enclosed are copies of Canal's crude receipts worksheets for the period April 1979 through June 1980 and December 1980. These constitute Canal's "crude oil purchase journal." Canal does not maintain a separate crude oil sales journal, but we are enclosing a tabulation of miscellaneous invoices which lists and totals crude oil sales invoices for each month during the period April 1979 through December 1980. Canal has been unable to locate its miscellaneous invoices for April of 1980, but is continuing to search for them.

As you and I have discussed, the crude oil tickets (item no. 2) you have asked us to copy and furnish are voluminous -- constituting thousands of pages. Accordingly, we propose that you review the enclosed information and if you believe further information is necessary we can arrange for you or your staff to visit Canal's Tulsa office where these records are located or we may be able to furnish you with the original documents under special procedures which guarantee their return in the same order and condition as they are furnished to you.

Public Disclosure Copy

In response to items 6, 7, and 8 of your June 19 letter, the following describes Canal's transportation method, delivery system, and storage capacity for crude oil:

For the months of April 1979 through December 1980, all crude oil was delivered to Canal's refinery at Church Point, Louisiana by truck including all crude oil initially received at the Jennings barge terminal.

The storage capacity at the refinery totals barrels. Of this, has been used for crude oil storage. The barge terminal has a capacity of barrels of which barrels of capacity has been used for crude oil.

The enclosed information is confidential and exempt from disclosure pursuant to the Freedom of Information Act (5 U.S.C. §552) *et seq*. and is information referred to in 18 U.S.C.§1905. Accordingly, prior to any disclosure, Canal must be notified in advance in accordance with 10 C.F.R.§205.9(f). A second copy of this letter deleting confidential information is also enclosed.

Having had DOE and FEA audit teams review its records numerous times, Canal believes that the above information should enable you to complete your audit without further action. If you have any questions and before taking any further action, please contact me.

Sincerely,

R. M. Dunagan, III

Enclosures
cc: Mr. L. J. Dilldine

RMD/jmb

Chairman **Roth**. We will next call forward Mr. Milton Lorenz.

Mr. Lorenz, will you remain standing and raise your right hand? Do you swear the testimony you will give before this committee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. **Lorenz**. I do.

TESTIMONY OF MILTON LORENZ, SPECIAL COUNSEL, ENERGY REGULATORY ADMINISTRATION

Chairman **Roth**. Thank you. Please be seated.

Mr. Lorenz, would you please state what position you hold with the Department of Energy and give your background with respect to Government service?

Mr. **Lorenz**. Yes, Mr. Chairman. I am currently special counsel with the Energy Regulatory Administration. My duties in that position were revised to some extent this past January. I held the position of special counsel——

Chairman **Roth**. Pull the microphone closer to you, so you can be heard.

Mr. **Lorenz**. I have held the position of special counsel since about the spring of 1982. Prior to that time, I was chief counsel in the Southwest District of the Office of Special Counsel, located in Dallas, which division was responsible for about 19 of the 35 major refinery audits.

Prior to that, for a period of approximately 1½ years I was chief counsel, natural gas liquids division, Office of Special Counsel, located in Dallas, which division was responsible for the audits of all 35 major refineries as to their natural gas liquids processing operations and costing.

Prior to that stint, I was, for 1 year, an attorney in the Denver regional office of the Federal Energy Administration, which was a predecessor agency to the ERA.

Prior to that time, for a total period of about 5 years or so, I spent 3 years in law school and——

Chairman **Roth**. When did you begin service with the Government? Were you a civil servant or a political appointee?

Mr. **Lorenz**. I am a career employee. I have a total of 21 years, interrupted by law school, and approximately 1 year or 2 in private practice and in teaching law.

Prior to law school, I worked for about 8 years for the Army Corps of Engineers.

Chairman **Roth**. I know that ERA has been reorganized often, but in 1982, did you have responsibility for minor cases?

Mr. **Lorenz**. Functionally, my position, I had responsibility for the preenforcement development of all of the cases involving pricing and allocation compliance.

Chairman **Roth**. Both major and minor?

Mr. **Lorenz**. Both major and minor, from 1982, yes.

Chairman **Roth**. Was it unusual for you to take an active role in settlement negotiations involving smaller oil companies?

Mr. **Lorenz**. That was not terribly unusual. I did spend most of my waking hours dealing with broader questions and very large companies, the major refiners.

But in connection with some skeptical kinds of questions that I have received from any number of investigators on this matter, I did take occasion to go back through my calendar, and tallied up a total of about 40 different meetings in which I have spent time with representatives of nonmajor refiner companies, smaller companies. There were about 40 meetings involving about 25 different smaller companies.

My presence or involvement in those cases, of course, was for a wide variety of reasons or bases.

Chairman ROTH. Were you present at a meeting between DOE officials as well as representatives of Anchor Gasoline Co. on October 2, 19——

Mr. LORENZ. I was.

Chairman ROTH [continuing]. 1982?

Mr. LORENZ. I was.

Chairman ROTH. Who do you recall was present at that meeting?

Mr. LORENZ. My recollection fits precisely with everyone else's; the meeting included Coty Dupre, R.N. Dunagan, Rayburn Hanzlik, Arron Landesman, and myself.

Chairman ROTH. Do you recall who arranged that meeting?

Mr. LORENZ. My recollection is that it was arranged through Mr. Hanzlik's office. I received word of that meeting indirectly, probably from my own secretary, that Mr. Hanzlik's office wanted me to sit in on a meeting.

Chairman ROTH. What was the purpose of the meeting?

Mr. LORENZ. Prior to the meeting, I didn't know what the purpose of the meeting was. I assumed it was someone seeking some appeal to Washington. I think Mr. Landesman made it clear to me, perhaps on the way to the meeting that it was a Kansas City case involving a small refiner.

The purpose of the meeting, as it developed, appeared to be that the company felt that they were getting a raw deal or not an interested or attentive audience in Kansas City, and they discussed or presented those two fundamental arguments: One, they were small, so they certainly couldn't afford these allegations that had been made by Kansas City; and, in addition, and perhaps more importantly—I think the point that I recall that they did stress was that EPA had proposed some regulations regarding lowering the lead content of regular gasoline, presumably, to some very extremely low level, which would entail a great deal of capital expenditure, et cetera.

The other presentation that they made or point that they addressed during the meeting in somewhat general terms was that they thought that, in any event, the charges that had been filed against them in a PRO that had been issued a month or so earlier were fraught with errors of fact as well as applications of the facts to the regulations.

Chairman ROTH. During this meeting or before it or at any time, did anyone mention that a high Government official was interested in the case?

Mr. LORENZ. Absolutely not.

First of all, I went into the meeting basically cold. I knew nothing about it. We did not, beforehand, discuss with Mr. Hanzlik or anyone else the nature of the meeting, what was to be expected, how the meeting came about.

I never really asked how the meeting came about, because Mr. Hanzlik had previously sent a number of letters—I am thinking perhaps 100 or 200, on that order—to various companies around the country who still had pending matters with the DOE, and essentially, told them that we would be interested generally in discussing settlements with them. Companies did call Mr. Hanzlik's office. They called various field directors; they called me. They called any number of people that they may have had previous contact with and who had some knowledge about it.

The appeal was not unusual. It was not unusual for someone to call Hanzlik's office to receive a hearing on some matter. It may, as it often did, turn out that there was very little we or Mr. Hanzlik could do about it. It was sometimes much after the barn door had been shut on the horse. We had people come in and appeal for a settlement of a case that had already gone through litigation.

But nevertheless, they were hurt, and they were treated kindly.

Chairman Roth. Going back to the particular meeting, did anyone mention the telephone call between Mr. Wright and Mr. Hanzlik?

Mr. Lorenz. No, sir.

Chairman Roth. Not anyone?

Mr. Lorenz. Mr. Hanzlik didn't mention it. No one else mentioned it; neither Mr. Dupre nor Mr. Dunagan mentioned it, and I should add, neither was it mentioned later by Mr. Hanzlik.

My first knowledge of that telephone call came in the fall of 1984, relatively recently.

Chairman Roth. Did any kind of undue influence or improper effort to influence the meeting take place?

Mr. Lorenz. No, sir.

Mr. Hanzlik may have, on one or two occasions, inquire of me, "How are you doing on Anchor?" This may be within the couple of months or so after that meeting. I think on one other occasion, I did advise him that—perhaps on two occasions, I may have discussed with him the fact that—first, I advised him that we learned of the Canal matter, and the effect that I had from that conversation and the tenor of that conversation was that, geez, if the company thought it had problems settling the Anchor matter, now we have this entitlements matter, and it's just as big or bigger than the Anchor matter. So even if the *Anchor* case, the PRO matter from September 1982, turns out to be too much reduced, we have another problem on our hands.

On one other occasion, I think Mr. Hanzlik asked me, whatever happened to the Anchor matter, and I simply reiterated, "don't you remember that I told you that the Anchor matter seems not to be of a great problem, but that we do have a separate entitlements matter."

Mr. Hanzlik would have been, in general terms, in this case or in any other case generally pleased if we had a settlement. That was pursuant to the policy that we had, but he never got involved in the merits of this case or the—he never made any recommendations or attempted to persuade me, or anyone else that I know of, as to what the disposition of the case should be.

Chairman **Roth**. Who are you referring to?

Mr. **Lorenz**. Mr. Hanzlik.

Chairman **Roth**. He never in any way tried to induce you to bring it to an end or use undue influence to——

Mr. **Lorenz**. Not to close the case, not to "lose" the case and not to settle it cheap.

Chairman **Roth**. Was it his practice to ask you occasionally about other cases, as well?

Mr. **Lorenz**. Indeed. I think he asked me much more about the progress or status of larger cases. We had cases and still have cases pending against a number of the major refiners. We had settlement discussions ongoing with a number of the major refiners during that time period.

Chairman **Roth**. You were present at another meeting of Anchor representatives on November 10, 1982; is that correct? If so, who was present at that meeting?

Mr. **Lorenz**. That is correct, and the same people were present at that meeting, with the exception of Mr. Hanzlik. That meeting was held in a conference room next to Mr. Landesman's office, which was a few steps from my own office, on a different floor from Mr. Hanzlik's office. That meeting, to my recollection, involved Mr. Landesman and myself, Dunagan, and Dupre.

Chairman **Roth**. What was the purpose of this meeting?

Mr. **Lorenz**. That meeting was a followup. I don't recall precisely whether we agreed to have a second meeting at the time we had the October meeting or whether one of us called later to schedule that meeting. But it basically was agreed that we would speak more specifically about the issues that had been raised at a subsequent meeting.

This was the subsequent meeting in November.

Chairman **Roth**. Was there any validity to the arguments made by the company at that meeting?

Mr. **Lorenz**. On the face of it, there was some validity to some of the arguments.

Chairman **Roth**. There was or was not?

Mr. **Lorenz**. There was. On the face of it.

Other points that had been raised by the company certainly required support or further study.

They raised a point on the level of nonproduct costs that they had been allowed or not allowed, or the amounts which were in the calculation.

They raised a crude import fee revenue that they argued should have been counted. I think it was in April 1973 rather than May 1973, which would affect the base cost and would have had an effect on allowable costs after that for every month of controls.

They raised the type of calculation which had been done, described very generally as pursuant to subpart E of the regulations but having features which seemed to closely resemble subpart K of the regulations. Subpart E is the subpart of the regulations that applies to refiners, and subpart K is the part of the regulations that applies to mere gas processers.

Chairman **Roth**. At this meeting, did the name of Joseph Wright come up in any way?

Mr. LORENZ. No, sir. At no meeting that I ever attended with Canal did the name of Joseph Wright come up. The name of Joseph Wright didn't come up until, as I just indicated, late 1984.

Chairman ROTH. Did you have any knowledge of the relationship of Joseph Wright, Jr., to the company in question?

Mr. LORENZ. No sir.

As a matter of fact, I assumed in 1982 Mr. Dupre, who was president of one of the companies and vice president of the other company, was a principal shareholder of the company. That was my assumption.

Chairman ROTH. After these meetings, did you direct John Crowell to make futher calculations on the computer in the *Anchor* case? If so, was this an unusual request?

Mr. LORENZ. I did contact—and I don't recall the specific order, but I contacted Dave Jackson shortly after that meeting to indicate to him that I would be asking them in Kansas City to provide some data to Dallas to Crowell so that we could calculate this thing more precisely, taking into account all of the features of the regulations. I also contacted Crowell to tell him that we needed that done, and I also contacted Ben Lemos Croswell's supervisor in Dallas, and cleared it with him. I don't recalled who I talked to first, but all three of those persons were spoken to.

Chairman ROTH. When did Crowell tell you about the computer run and what did he say?

Mr. LORENZ. Well, I put Mr. Crowell on to this—my recollection is it would have been in November some time, and by January, I do recall meeting on him sometime then about the fact that I hadn't gotten back an answer, and he complained that Kansas City wasn't cooperating and, again, I talked to Mr. Jackson. Mr. Jackson assured me that there was no problem. Then by spring of 1983, I—my best recollection, but this is not precise and I don't have any notes on it—is that it is approximately April 1983, Mr. Crowell told me that the run was about zero.

Chairman ROTH. About zero. Did he talk about $80,000 as being zero liability?

Mr. LORENZ. I don't recall the $80,000 figure. My recollection is that it was close to zero, but my recollection is $50,000. But they are about the same as far as I am concerned.

Chairman ROTH. Did ERA try to collect violations of that account?

Mr. LORENZ. For a refinery case, which would probably involve perhaps 20 regulatory issues in order for us to succeed, no, sir.

Chairman ROTH. In 1985, a new Anchor PRO was issued that has still not been published. Why is that?

Mr. LORENZ. The problems that existed in the 1982 PRO still exist. The PRO was still there, I think when Mr. Lemos in Dallas learned—and I'm not sure how he learned, it might have been through the IG or elsewhere—that someone had made the point that the Federal Register notice was outstanding and had been for a couple of years.

He rather quickly had someone do a fast recalculation of the interest and, essentially, on a Friday in January 1985, withdrew the 1982 PRO, then, on the Monday following, issued another PRO.

It was after that by about 3 or 4 days, perhaps, according to Mr. Lemos' conversation with me another week later, that Mr. Dunagan called Mr. Lemos complaining that after all the discussions we had had and the points that he had made, no effect had been given to any of it, and as I said, Mr. Limas then called Mr. Landesman and myself on it, and my reaction was, "Yeah, that's right, there were some problems with that."

Then the next question was, well, do we issue a Federal Register notice on this one. The answer was, it is no more appropriate on this one than it was on the first one, because it suffers from the same problems.

Currently, I'm told that in some sense that this ongoing inquiry has caused people in Dallas to be ever more careful than even the Kansas City people were or the Tulsa people were years ago, and we have some difficulty in tracing back to what was done by Kansas City, where they got it from, what they relied on, what the premises for the calculations were; and I would venture a guess at this point that we will probably need some additional work on that case. It is still on the books, though, and there are people working on it currently.

Chairman Roth. You also had supervisory responsibility for Canal's entitlement case; is that correct?

Mr. Lorenz. That is correct.

Chairman Roth. Do you recall discussing this case with Bill Lynch in February 1983?

Mr. Lorenz. I recall approximately that timeframe discussing this case, and I may have discussed this case, as well, oh, perhaps a month or so earlier in connection with the Anchor matter itself. I learned only after the October and November meetings of the Canal matter. I probably learned it, I believe from, Mr. Lynch, who had, I recall, probably in exess of 100 such cases.

I would have had some discussion with him, probably in February 1983.

Chairman Roth. Why wasn't the Canal PRO issued back in February 1983?

Mr. Lorenz. Well, I had the responsibility for issuing the PRO, signing the PRO. I received the PRO in February 1983 without ever having seen it before. The case had been worked on by Mr. Lynch. It had been looked at by Mr. Heiss, who concurred, and concurred to the extent that the case made there, assuming everything to be true as represented in the factual section, represented a prima facie case. I was interested in more than a prima facie case.

My responsibility in the compliance area for ERA was more than to simply bring a change that couldn't be thrown out on its face. I asked further questions about the theory of the case as opposed to the facts that were being presented. I asked that further inquiry or checking of facts be made to determine whether and to what extent there may be, as I think Mr. Lynch referred to, daisy-chain evidence.

I also had some difficulty with part of the legal theory in that case.

Chairman Roth. You had a meeting on November 8, 1983, with Mr. Dunagan and Mr. Dupre and Mr. Hanzlik's office; is that correct.

Mr. LORENZ. Yes, that is correct, sir.

Chairman ROTH. What was the purpose of that meeting?

Mr. LORENZ. Well, as best that I could deduce, the purpose of the meeting was for Mr. Dupre to wave in front of us some opportunity to trade a case for a case. They said that they had a claim going against the Department of Interior for about $16.7 million or so, and that they would be happy to relinquish that claim if we would just go away as to whatever issues we had outstanding on Canal and Anchor.

Chairman ROTH. Did anyone mention Joseph Wright, Jr., or his phone call to Hanzlik at this meeting?

Mr. LORENZ. No, sir.

Chairman ROTH. Now, you said earlier this case was deemed to be worth practically nothing. Why did you take the time to met with the company officials?

Mr. LORENZ. In November 1983?

Chairman ROTH. That is correct.

Mr. LORENZ. Because we still had the Canal case pending, and I had advised Mr. Dunagan at some point earlier—it may have been 6 monhts earlier—when he made some inquiry about where we stood on the Anchor matter. That is when I indicated to him that a larger problem for them would be the Canal entitlements type case, that the Anchor matter certainly did appear to be worth much less than what Kansas City had alleged, but we still had this other matter, and I—well, I guess I was vague with him about the Anchor business part of my strategy. It has not been unusual either, for me or others in a negotiating posture, maybe to leave a document hanging out there. One of the things that could have been done—and I guess, fortunately, we didn't—if the case was zero, then the proper thing to do is to withdraw the case.

We left it out there, and if the company thought it was worth 100 grand or something like that in overall settlement for other matters, so much the better. I would be easier for us to get a settlement.

Chairman ROTH. If you thought it was worth virtually nothing, why wasn't it worthwhile to accept that offer and get it off the books.

Mr. LORENZ. Well, the Department of Interior claim had been a hotly contested matter. This involved Interior selling Government-owned oil to refiners and oil companies. And not only Canal, but several other refiners or purchasers from Interior had contended that that oil was not properly certified pursuant to the regulations which they alleged did not exclude the United States for coverage.

I think more recent months would indicate that there is a very good basis for a sovereign immunity claim there. It was a matter that neither Mr. Hanzlik nor myself wished to wade into. It would have meant convincing people at the Department of Interior that their claim—that the owed overcharges. That was still in dispute then.

Chairman ROTH. According to Mr. Lynch, after you had evidence on the daisy-chain, the document was redrafted and resubmitted to you in November or December of 1983. You, again, declined to approve the PRO. What was the reason for that decision?

Mr. LORENZ. By that time, we were approaching the issues and difficulties that were alluded to in previous testimony and previous questioning involving the Cities Service inquiry.

As Mr. Landesman testified, Cities Service had received an official interpretation, which did say something about, in *Cities'* case with their facts, what might or might not be a violation. It also didn't say precisely what might or might not be a violation, but held open the possibility that something like that could be a violation.

Chairman ROTH. Did Gloria Sulton, the attorney on the *Canal* case, ever specifically advise you to consider the implications of the *Cities Service* case for assignment in the *Canal* case?

Mr. LORENZ. I don't recall Miss Sulton coming in to me and saying, "I can advise you of something," but I think it was well known by myself, Miss Sulton, Mr. Miles, and others who were consulted through this process; even though we needn't have consulted them, we knew the importance of the case. We knew the kinds of legal issues that it would raise and it was, if anything, by consensus of everyone, certainly well understood.

I should add, I think that Mr. Lynch was not included in such discussions or conversations.

Chairman ROTH. Did you ever receive any pressure from Congressman Dingell's subcommittee to pursue daisy-chain allegations?

Mr. LORENZ. I'm glad you limited the question to daisy-chain allegations, because the answer may have been quite lengthy.

Yes, I believe in May 1983, as a matter of fact, there was a hearing conducted by Mr. Dingell in which the question of Cities Service came up; questions revolving around the so-called daisy-chain or trading or miscertification of crude oil were also raised.

Chairman ROTH. Were you ever asked by anyone to delay approval of the Canal PRO?

Mr. LORENZ. You mean—well, the only time I could imagine anyone asked me or implied that I should delay would have been certainly by—well, some time midsummer or late summer 1984, at which time some litigation staff and/or Miss Sulton were certainly strongly implying that we need to get our *Cities Service* ducks in a row before finally proceeding on *Canal.*

Chairman ROTH. Did you ever ask anyone to delay the *Canal* case on account of Joseph Wright's phone call to Mr. Hanzlik?

Mr. LORENZ. No, sir, because I didn't know of Mr. Wright.

Chairman ROTH. When was the PRO ultimately signed?

Mr. LORENZ. It was signed, I believe, April 18, 1985, by Mr. Landesman.

Chairman ROTH. When did you later meet or talk with Mr. Dunagan or other Anchor-Canal representatives?

Mr. LORENZ. In which timeframe? We discussed October 22, 1982, November 10, 1982.

Chairman ROTH. After November 1983?

Mr. LORENZ. Oh, as far as meetings were concerned, we had one November 1983. That's really the last meeting that I recall having with them. I may have had possibly a telephone conversation with Mr. Dunagan. Every once in a while, he would call.

Chairman ROTH. Are there any major differences in the Canal PRO, as it was originally drafted, and the resulting PRO issued on April 18, 1985?

Mr. LORENZ. Very substantial differences. The Department has, and certainly we have offered to the committee, the various drafts. The differences—I guess it gets to be a little bit sensitive about a draft allegatory document as the other side, either Canal or even a company having something of a similar issue; for example, Cities, might attempt to make something of that.

But I think one can look at the drafts and if nothing else, look at the counts that are alleged, the violations that are specifically alleged to have taken place and the theory for it.

You will see that the facts don't change a great deal. There is some additional development of the facts in the later documents. In my view, at least in my analysis or assessment, although we have had, as Senator Eagleton has pointed out, a number of drafts—he counted nine, I counted eight drafts at one point, but that depends on how precisely you want to count. I count three principal drafts. The others seem to be more minor alterations or drafting changes and that kind of thing.

I count three principal drafts, and I count those as basically having taken place some time prior to February 1983, in the summer of 1984, and then the final issued document representing——

Chairman ROTH. Were these significant changes between the three principal documents, or were they pretty much boilerplate?

Mr. LORENZ. They're not boilerplate, absolutely not boilerplate. The first draft cited to two regulatory violations, two sections of regulations that were violated. The second draft cited to those two, but perhaps more importantly, to three other specific sections of the regulations.

The final document that was issued cited to at least—it appears to be something like four different violations. Those violations are different than those that were cited in the first two.

Chairman ROTH. Is there any statute of limitations on this kind of a thing?

Mr. LORENZ. No, sir, not to our knowledge. No one has ever succeeded in convincing any court that there is.

Chairman ROTH. Do you know Joseph Wright, Jr.?

Mr. LORENZ. Well, I met him in the hallway yesterday, as a few of us had, and I guess this does give an opportunity for people to get together. We haven't met before.

Chairman ROTH. When did you first learn, I emphasize the word "first," when did you first learn of Mr. Wright's—Joseph Wright, Jr., that is, interest in *Anchor-Canal*?

Mr. LORENZ. I think I learned of this from Mr. Hanzlik. My recollection is some time in November 1984 that the circumstances leading up to that were that a member of my staff, several steps removed from me in another division within my office was attempting, for purposes that I believe, of answering either GAO or IG questions that had been raised about cases in which there were delays between the issuance of a proposed remedial order and the issuance of the Federal Register notice. One of those cases that had been mentioned and asked about was the *Anchor* case.

This employee had the task of trying to find out what happened to it. She called several of the field offices before finally reaching Mr. Elliot in Kansas City who is an auditor in Kansas City, and according to the lady on my staff in Washington who talked to Mr. Elliot, according to her contemporaneous notes, she wrote down that Mr. Elliot said that there was a high White House or OMB connection or influence or something to that effect, and, furthermore, said, "Check with Ray or Milt," and that's what she wrote down.

Her supervisor came to me with this some time in October and said, "Do you know anything about this?"

Chairman ROTH. October when?

Mr. LORENZ. In 1984.

Chairman ROTH. 1984?

Mr. LORENZ. Yes. I think the date of her telephone call is September 30 or so to the best of my recollection.

Her supervisor came to me and said, "Look what Esther Zimmerman put down here based on her conversation with Tom Elliot," and I said, "What the hell is this? What is it all about? Who are they talking about? And he told me, "Well, I don't really know, let me go back and talk to Esther."

So, something like a week or so later, he comes back and says, "Esther said that Tom Elliot refused to say. He wouldn't say anymore about it." And I said, "Well, I don't know anything about it. I'll check with Hanzlik."

To the best of my recollection, Mr. Hanzlik was traveling or not easily available for a couple of weeks' period there, and some time in November, I broached the subject with Mr. Hanzlik, showing him the copy of Ms. Zimmerman's notes that she had made as to this conversation with Mr. Elliot. It was at that time that Mr. Hanzlik said, "Oh, I'll bet you what they're referring to there is the fact that Joe Wright made a call at that juncture." I didn't ask further who did he call and what did he say and things like that.

I said, "Well, you never heard of Joe Wright, and it doesn't make any difference anyway, because the cases are off on their own tracks." So I didn't get terribly upset. I probably wasn't as upset about it as I should have been, or concerned about it as I should have been, and probably sometime within the next week or two later, I further clarified with Mr. Hanzlik that Joe Wright had called Mr. Hanzlik.

I assumed the first time that Joe Wright had called somewhere else, perhaps in the Secretary's office. That kind of stuff is not unusual. From time to time, we have calls passed on to us, you know, "Would you please speak with these guys?"

So it's in November 1984 that I learned for the first time about Joe Wright. I never heard of the man before, although he was Deputy Director of OMB, and it's also the first time that I learned that he spoke directly with Mr. Hanzlik.

Chairman ROTH. But you did have some notice in October about the incident, if I understand your testimony?

Mr. LORENZ. I had some notice, not of a name. No one knew the name in October. No one told me the name.

Chairman ROTH. Do you recall Mr. Hanzlik calling you in August 1984 and asking you anything about Joe Wright?

Mr. LORENZ. No, sir. I didn't learn of it until I asked Mr. Hanzlik about, not Joe Wright, but I asked who this person could be at OMB or the White House.

Chairman ROTH. Did you ever tell David Jackson or Robert Wehrle-Einhorn or Tom Elliot in 1982 or 1983 or any other time that there was interest by a high-level Government official in the *Anchor* and *Canal* cases?

Mr. LORENZ. No, sir, because I didn't know it myself.

Chairman ROTH. That is an unequivocal no?

Mr. LORENZ. Unequivocal, absolutely not, and neither was I present when it was said.

Now, the meetings that he's referring to usually had at least 15 people in the room, and as meetings like that are wont to do, occasionally there will be six different convesations going on, but I certainly didn't say it to Mr. Jackson, nor to Mr. Einhorn, with whom I had even fewer occasions of contact.

Chairman ROTH. More specifically, did you tell Mr. Jackson during any meeting in Washington between November 1982 and May 1983 that was a fact?

Mr. LORENZ. I did not tell him anything about Joe Wright, high official, or influence. I didn't know of any such thing, and furthermore, I may have told him that I was taking care of the *Anchor* case, that that was my responsibility. The line of questioning this morning seemed to be addressing some of Mr. Jackson's notes and what those notes meant.

I have never seen his notes. I have no idea what he meant by the cryptic notations. He certainly did talk to me, I would guess, perhaps in January or something like that, possibly February 1983, about *Anchor*, at which point, my answer was that Dallas is supposedly running that stuff.

I talked to him. I called him on one occasion to complain about the lack of progress as between Dallas and Kansas City. So, yes, we had conversations about it. And I—at a later time, when it was brought up after—I did tell him that on one occasion, I told him that the case had come out to practically nothing, but that we still had the *Canal* entitlements matter, which he wasn't terribly interested in, but that was for his information.

Chairman ROTH. My final two questions: Did anyone ever tell you that the *Anchor* pricing case or the *Canal* entitlements case should be handled in a special way because of Joseph Wright or because of high Government interest in——

Mr. LORENZ. No, sir, absolutely and unequivocably, under oath, no one told me that, and the mention of Joseph Wright only came into my knowledge by late 1984. I had never heard the name before.

In fact, the first time I heard "Joe Wright," initially, for about 20 seconds until I was corrected, I understood it, to be Jim Wright, and I even asked some dumb question like, "I thought this was a Louisiana company. What did Texas have anything to do with this?"

Chairman ROTH. Now, on the other hand, did you ever tell, suggest, or infer in any way to anyone that either of these cases should be handled specially?

Mr. LORENZ. Certainly not specially as specially pertains to influence or something along that order. The *Anchor* case, the small refiner case that they had done was treated somewhat differently, and the reasons for that is that the company came to Washington, did get a meeting, and succeeded in getting me to look at what had been issued.

Ordinarily, in those cases we didn't hear from those people. If the people made a settlement, and I never had to read the proposed remedial order, that was terrific by me. If they said, "Go to hell," we never want to settle, that was fine by me, too. Then it was in litigation, and I didn't have to worry about it. It was these kinds of cases where the company came in and made out, at least on the face of it, a case that something appeared to be wrong. It's very difficult to deal with those kinds of circumstances and simply say, "We don't want to hear it," or, "No we agree with Kansas City," when I know better.

Chairman ROTH. Senator Eagleton.

Senator EAGLETON. Thank you, Mr. Chairman. In your last answer, I believe it was your last answer to Senator Roth, you pointed out, "that the *Anchor* case was treated somewhat differently." And, indeed, it was. And indeed, that is what this whole hearing is about, Mr. Lorenz: How differently the *Anchor* case was treated; how differently the *Canal* case was treated. It is true that to this very day, isn't it, that there has been no publication of the *Anchor* PRO in the Federal Register?

Mr. LORENZ. That's correct.

Senator EAGLETON. And the case dates back to—we are talking about *Anchor* now—to April 2, 1979. The *Anchor* audit is transferred from ERA's Oklahoma City office to the Kansas City office. It really predates even that, but that is where our computer run starts, so we will call that the beginning as far as this April 2, 1979, and maybe earlier.

Mr. LORENZ. I think that's not unusual.

Senator EAGLETON. It is not unusual?

Mr. LORENZ. No, sir.

Senator EAGLETON. Here it is November 1985; April 2, 1979.

If you stay in your position, do you think we could get the *Anchor* case resolved by the end of this decade?

Mr. LORENZ. Through litigation, Senator.

Senator EAGLETON. Through litigation, yes.

Mr. LORENZ. Well, we probably have cases that started even before that that probably won't be through litigation before the end of this decade.

Senator EAGLETON. When do you think you could get the PRO published in the Federal Register? Is it being redrafted on Anchor?

Mr. LORENZ. It is being redrafted, and I understand, some additional review is being performed down in Dallas at this point.

Senator EAGLETON. If Canal went through eight or nine redrafts—let's say eight, our sheet shows nine—let's call it eight, how many redrafts will Anchor have gone through by the time you folks get around to putting it in the Federal Register?

Mr. LORENZ. I'm not certain, sir.

Senator EAGLETON. Would it be numerous in——

Mr. LORENZ. I would imagine at least a couple. It would be terribly unusual for any document to be issued without several drafts.

Senator EAGLETON. Several drafts?

Mr. LORENZ. Yes.

Senator EAGLETON. Do you think there will be several drafts more before it goes in the Federal Register, or do you think that we are getting close?

Mr. LORENZ. It would be pure speculation. It depends upon the person who originally writes the document; and then someone else will review the document; someone else would have to sign the document; the litigation staff may be asked what they think of it, and different people may have different suggestions. So that's why it's not unusual, and it is typical that several drafts may occur.

Senator EAGLETON. You are the man in charge?

Mr. LORENZ. Not currently, not since January.

Senator EAGLETON. Who decides whether it goes in the Federal Register?

Mr. LORENZ. Mr. Landesman.

Senator EAGLETON. But you are a superior to him?

Mr. LORENZ. I think we are considered equals.

Senator EAGLETON. OK, you are equals. So you and Landesman will ultimately decide, or Landesman will, when this thing goes in the Federal Register?

Mr. LORENZ. Yes.

Senator EAGLETON. Considering the furor that has been created over this matter—and we will go into part of it—wouldn't it be the better part of discretion to move on with the case; that is, to get the final draft, as many as these drafts are, get down to the final draft? Wouldn't it be better when you were in charge? When Landesman took over in January, you had a reorganization?

Mr. LORENZ. Yes, sir.

Senator EAGLETON. And even today, considering the furor, if you and Landesman could go back to the shop, call in such lawyers as are working on it and say, "Folks, look, there is a big furor going on up there. Wildman Eagleton is raising it. Rudman is raising it. Look, let's just sit down, even if we have to work over the coming weekend, even if we have to work nights and Saturday and Sunday, let's get the *Anchor* case polished up. Let's file them."

Would that be sensible?

Mr. LORENZ. No. It wouldn't make a difference, really. I think your inquiry would still be there. Your question would still be there.

Senator EAGLETON. To get the case moving.

Mr. LORENZ. Do we fold under pressure, move it simply because there was an investigation?

Senator EAGLETON. You did that in Canal, and we will get to that. We'll stay with Anchor.

Don't you want to get the *Anchor* case moving? Don't you want to collect some moneys from Anchor?

Mr. LORENZ. Yes, sir, we would love to get the case moving.

Senator EAGLETON. At one time, they offered you one-half of a million dollars. It ain't the moon, but it ain't chicken feed. We know that it is at least worth one-half of a million dollars to Uncle

Sam. Jackson thought it was worth $2 million at one time. Isn't it worth a little extra effort to get these Anchor folks to pay up?

Mr. LORENZ. I think all of us, Mr. Landesman, myself—everybody at ERA, certainly about this case, would love to be able to say we issued that thing and now are satisfied. I think as has been alluded to by perhaps Mr. Landesman, it is essentially a choice of issuing a document and litigating a document of any kind, and litigating the better or best case.

Senator EAGLETON. Mr. Landesman testified; I made a cryptic note. He said that he thought at one time the *Anchor* case might fade away.

Mr. LORENZ. He thought that——

Senator EAGLETON. Yes. I have got "Landesman, fade away." Do you think it can fade away?

Mr. LORENZ. That it will?

Senator EAGLETON. Yes.

Mr. LORENZ. Oh, no, sir. I doubt very seriously that it will fade away. At one time——

Senator EAGLETON. That is what he thought at one time, it was going to fade away. Did you think it was going to fade away?

Mr. LORENZ. Did I at one time?

Senator EAGLETON. Yes.

Mr. LORENZ. I thought the Anchor matter at one time was minor to zero importance. After I was advised that it was nearly zero, that is correct.

Senator EAGLETON. That moves me, then, to ask why you thought it was zero. That is that Crowell run, right, with the funny figures? You were here yesterday.

Mr. LORENZ. Yes.

Senator EAGLETON. And the run was, even under Crowell's testimony, totally erroneous.

Mr. LORENZ. Apparently so.

Senator EAGLETON. Apparently so. And you took this information from Crowell over the phone, right, over a phone?

Mr. LORENZ. Yes, sir.

Senator EAGLETON. Crowell phoning, and what memo do you have about that in your files?

Mr. LORENZ. I don't have a memo about that phone call.

Senator EAGLETON. Is that it?

Mr. LORENZ. Yes, about——

Senator EAGLETON. Well, the case is now worth $80,000 to you. You have a case that is $16 million; Jackson had offered to accept $2 million under a hardship basis. The company had even offered a half million dollars. Crowell is telling you over the phone that is only worth $80,000, and the company was willing to pay a half million dollars, and you took this over the phone from Crowell.

What have you got in writing in your files about this case being a near zero case?

Mr. LORENZ. I didn't write a memo to the file, sir.

Senator EAGLETON. You didn't write anything?

Mr. LORENZ. No, sir.

Senator EAGLETON. Just you got up here in your head that *Anchor* is a near zero case?

Mr. LORENZ. Yes.

Senator **Eagleton**. Then it really fades away, doesn't it, in your mind?

Mr. **Lorenz**. Yes. It fades as to its importance.

Senator **Eagleton**. How many cases do you keep up there in your head in terms of what they are worth? You said, for instance, that you dabbled around in 40 cases at your level that had been brought to you. You went through your notes, you said, your memo logs or whatever it was, and you dabbled in 40 small refiner cases.

Do you have the settlement figures or the proposed settlement figures of the other 39 in your head?

Mr. **Lorenz**. Not of 39.

Senator **Eagleton**. No, I didn't think you did.

Mr. **Lorenz**. I remember some of them.

Senator **Eagleton**. Boy, oh, boy. You file away good old Anchor, a case which Anchor offered one-half million dollars; Crowell says it is $80,000, $50,000. You won't quibble about that. You think it is near zero, and in your head, that is it, no memo to the file, and Anchor goes into limbo. That's about it.

Mr. **Lorenz**. Well, I didn't have a recollection—did not have a recollection of the $8,000.

Senator **Eagleton**. No, we call it $50, we call it some few thousands of dollars. But you filed that away, nothing in writing, and the *Anchor* case fades.

How many other faded cases have you had on verbal exchanges over the phone with no memos placed in the file, just, "Mr. Lorenz keeps it up here"?

Mr. **Lorenz**. Well, at that point, in spring 1983, we were still looking at the *Canal* entitlements case, which I did expect to be something substantial.

Senator **Eagleton**. We will get to that. We will spend time on *Canal*. How many of these others? Take the 39; how many of those faded?

Mr. **Lorenz**. Altogether?

Senator **Eagleton**. Yes, of the verbal, telephone call, and no memorandum in the file, "I'll just keep it up here what that case is now reduced to"?

Mr. **Lorenz**. Oh, probably a number of them.

Senator **Eagleton**. A number of them. That is the way you do business over there, right? That is a magnificent filing system, and you have a magnificently retentive mind to be able to keep case by case in your head, with no memo, what a case has been adduced to, what the computer run might be from Crowell, or whoever the figure might be from, whoever the figure cruncher might be around the country; it is marvelous. That is how you run the office, correct?

Mr. **Lorenz**. I expected, as I am sure you would understand, that Mr. Crowell of the Dallas office would, indeed, have a record of it. I did not see my role as——

Senator **Eagleton**. The funny thing is Crowell doesn't. Isn't that funny? You keep it in your head, and Crowell misplaced it or it got lost or what happened; it disappeared, and all we have got is some figures from a left-handed—supposed Crowell handwriting expert says—from a left-handed female auditor, and then be punches those back in and they are wrong, and the whole thing is a dreadful mess, and that is what we have got.

You are presiding over the *Anchor* case.

Mr. LORENZ. And not documenting memos about every occurrence of the case.

Senator EAGLETON. You are not?

Mr. LORENZ. And not personally documenting the occurrences in every case.

Senator EAGLETON. That is right. In fact, you can't document much at all.

Mr. LORENZ. You're right.

Senator EAGLETON. It is all in your memory. From the time you met in that office, Hanzlik and the Anchor folks, October 1982, you did the *Anchor* case by memory? Right?

Mr. LORENZ. 100 percent. Is that your question?

Senator EAGLETON. How about 99 percent, 95 percent?

Mr. LORENZ. About 80, 70. I have notes that I made on a couple of occasions, and those you have seen.

Senator EAGLETON. You think in the scheme of things in the national office, it was not a very big case. You are dealing with Cities and big ones, the national ones, right?

Mr. LORENZ. Yes.

Senator EAGLETON. Out there in Kansas City, this might be a fairly decent-sized case, said Mr. Landesman. In the big office it is not. But it is $16 million, nonetheless; that is the price.

How often, in your experience, have you received calls from Crowell or people like Crowell, that a case of whatever it is, *x* million, has gone to near zero?

Mr. LORENZ. That was more frequent than it sounds.

Senator EAGLETON. It was?

Mr. LORENZ. Yes.

Senator EAGLETON. Most of these from Crowell. Is he our near-zero specialist, or what? Do you have a whole bunch of these guys that come up?

Mr. LORENZ. I don't beat my wife, either.

Senator EAGLETON. What?

Mr. LORENZ. I don't beat my wife, either.

Senator EAGLETON. And you take these down over the phone, and that is how you sort of resolve them, right, from the cruncher? The cruncher tells you, "Near zero, Mr. Lorenz."

Mr. LORENZ. The crunchers ordinarily and usually maintain copies of the computer printout which shows what the assumptions were and what the figures were.

Senator EAGLETON. Usually? But in this celebrated case, this unique, celebrated case, they don't retain them. Usually they do.

Mr. LORENZ. I don't know.

Senator EAGLETON. Standard operating procedure is to retain them. The Wright family is involved, no retention.

Did you ask Mr. Crowell, after you got this information on the phone, "John, gee, that's interesting, a $16 million case sent to near zero. Could you shoot that data up to me so I can put it in my file, because we ought to have some documentation up here in the file if a case all of a sudden went from $16 million to zero. We were offered a half million on it, John. Isn't that strange, John, that we were offered a half million on a zero case? But would you shoot it up here so we have it in the file?"

Mr. LORENZ. I had a conversation that was similar to that, not——

Senator EAGLETON. Not——

Mr. LORENZ. Not precisely that, but I did have a conversation that we had dug up another case, about which Crowell knew nothing, the entitlements case. And that would now probably become the core discussion to the extent that there was a discussion of settlement. That would become the core of such a settlement.

Senator EAGLETON. Did you ask John to send the documentation up on Anchor?

Mr. LORENZ. I was coming to that point.

Senator EAGLETON. OK.

Mr. LORENZ. And I could advise him of the other case. I told him, "I realize you are real busy on some of this other stuff, but some time in the next month or two, you are going to need to put together the file on that thing."

Senator EAGLETON. That never happened?

Mr. LORENZ. Pardon?

Senator EAGLETON. It didn't happen?

Mr. LORENZ. Well, that's what I heard.

Senator EAGLETON. That's what you heard. Did you call him back in a month or two and say, "Hey, John, I have got this memory, you know, and I have got this near zero run locked up on the *Anchor* case, and I haven't got the run, John"?

Mr. LORENZ. I did not.

Senator EAGLETON. You didn't?

Mr. LORENZ. No.

Senator EAGLETON. Well, your memory wasn't triggered about that. Your memory was not triggered to make a followup call to him?

Mr. LORENZ. No, sir.

Senator EAGLETON. Well, do you have the Dick and Diana page?

Mr. LORENZ. No, sir. No, sir.

Senator EAGLETON. We will shoot it out to you.

This is a document, a piece of paper, a page that was in a document about one-half inch thick, and Mr. Chairman, I am going to offer the whole document, including the page, in the record at this point. I don't think I offered it.

Senator RUDMAN [presiding]. I believe that is already admitted.

Senator EAGLETON. If it isn't, we will. We won't put it in twice.

You were here when we discussed this with Mr. Landesman, right? You were in the room——

Mr. LORENZ. Yes. Yes.

Senator EAGLETON [continuing]. Room, and we identified who Dick and Diana might be.

Mr. LORENZ. Dick Green and Diana Clark.

Senator EAGLETON. Dick Green and Diana Clark; they are lawyers around there?

Mr. LORENZ. Yes.

Senator EAGLETON. Corrallo and Anthony Miles. You are not a handwriting expert, and you don't qualify as such, but does that handwriting look at all familiar to you?

Mr. LORENZ. It looks vaguely familiar, and I can say that it is definitely not Mr. Corrallo's, because I can read it. [Laughter.]

Senator EAGLETON. But Mr. Landesman speculated it might be Anthony Miles'. Is that conceivable?

Mr. LORENZ. Yes. That would be my own speculation, too.

Senator EAGLETON. Oh, that's yours. In the first paragraph or so, there, he says that, "Here's the PRO for *Canal,* and this case is a combination of *Cities* and *Dorchester* but more *Dorchester* on the face." That is a very cryptic summary. Would you concur in Miles' analysis?

Mr. LORENZ. I'm not certain. My recollection of *Dorchester* is that there were trades done on a pipeline, whereas I don't recall that being the case in *Canal.*

Senator EAGLETON. Dorchester was under your supervision?

Mr. LORENZ. I'm not certain what aspects or what he means to say is similar to Dorchester.

Senator EAGLETON. It was Dorchester under your supervision?

Mr. LORENZ. Yes.

Senator EAGLETON. Was the processing of the case under your supervision, step by step, you know, from PRO to Federal Register to remedial order?

Mr. LORENZ. Through the PRO to the Federal Register notice, but not the remedial order. That's under the Office of Hearings and Appeals.

Senator EAGLETON. Dorchester, you know there is a remedial order in Dorchester?

Mr. LORENZ. Yes.

Senator EAGLETON. So it has gotten that far. It has gotten a lot farther than *Canal,* and infinitely farther than *Anchor,* for that matter.

Mr. LORENZ. Yes.

Senator EAGLETON. So if Anthony Miles thinks that there is some reasonable similarity between *Dorchester* and *Canal*, one can ask, why does *Dorchester* move along on what appears to be a timely basis, and *Canal* goes through eight redrafts?

Mr. LORENZ. I don't have any redrafts. *Dorchester* went through—the initial difficulty or recent delay in *Canal* had more to do with the legal theory generally, not expressly as it may affect *Cities.* That was not the original, very original concern.

I am speaking now of early 1983. The original concern was not expressly a relationship to *Cities* but the facts as were laid out in that draft, which is the evidence and the legal theory and, essentially, that was——

Senator EAGLETON. While we are digging up the legal theories and drafts and redrafts, you and Mr. Landesman disagree as to the final draft of the Canal PRO. He testified that the final draft, be it 8 or 9, was basically the same as draft 1, plus some boilerplate.

Mr. LORENZ. I disagree and would, as well, suggest that someone actually take a look at it.

Senator EAGLETON. Fine.

Mr. LORENZ. I have found——

Senator EAGLETON. But if, if the various drafts of the *Canal* case, draft after draft after draft—you call three of them major, or some such word—pretty much of the same; it looks like there are some wheels spinning over there. There are some lawyers sitting around, one could think, needlessly, redrafting and redrafting and redrafting, until hallelujah, April 18, isn't it, of 1985. Right?

Mr. LORENZ. Which part? April 18, yes.

Senator EAGLETON. The whole part.

Mr. LORENZ. That it was needless?

Senator EAGLETON. You have a lot of drafts and they are pretty much the same, and only three are major, five or six are minor, and all this drafting and redrafting and redrafting. It is like a lawyer over there is punching the time card or something, and he ain't getting value received.

Senator RUDMAN. Would the Senator yield for one moment? We are about to come up on halfway through the vote, and I wonder if the Senator would like to recess now? My problem is, I would like to ask him one question and then yield back to you.

I won't be able to get back here right afterward, and I expect we are going to be done with this witness, probably.

Senator EAGLETON. I yield to you.

Senator RUDMAN. I just wanted to ask one question. My question is this: This Crowell report that came to zero, that was requested by you? I understand that the original report was requested by Kansas City; is that correct?

Mr. LORENZ. I think Kansas City was dealing with Crowell pursuant to my instructions. My instructions were for Kansas City to provide the data and for Crowell to take the data and then put it and do a calculation of the results.

Senator RUDMAN. It seems a little odd to me that you filed that in your mind and you put it away, but I guess my question is, Was the information you got from the Dallas computer operation generally reliable?

Mr. LORENZ. It was generally reliable; yes. I would say so.

Senator RUDMAN. When you received the report from Crowell, did you have any prior basis to say, Well, this ought to be looked at again; this doesn't make sense, or did you just accept it?

Mr. LORENZ. I basically accepted it. In fact, I had telephone conversations with Crowell about other cases, major refiner cases. We did literally, down in Dallas, hundreds of calculations, recalculations, mapping out every possible scenario, given numerous issues and how the different results could come out.

Senator RUDMAN. And I take it that the reason that this came back up again and you took another look was because of all of the notoriety that surrounded this whole issue. Have you looked at it again? I'm just curious.

Mr. LORENZ. I have looked at the PRO again. I haven't looked at their calculation that they have done. I did look at one calculation, which came out to maybe half of Kansas City calculation.

But I'm told that they have even some question about the data now.

Senator RUDMAN. How many other cases were under your jurisdiction at this time—large, small, whatever—during this timeframe we are talking about?

Mr. LORENZ. Four hundred.

Senator RUDMAN. About 400 cases?

Mr. LORENZ. Yes.

Senator Rudman. What percentage group would this fall into in terms of size?

Mr. Lorenz. In relative size, this is probably, oh, it's probably a little—something below the 50th percentile.

Senator Rudman. I am going to yield the time I used to Senator Eagleton when he returns from voting because I will not be returning directly.

Senator Eagleton. I am going to skip the vote. I am going to skip the vote at this time.

Senator Rudman. Are you going to skip the vote?

Senator Eagleton. Senator Roth wants us to move this along.

Senator Rudman. The chairman has asked me to recess until he can get back from the vote. So I am going to have to do that at his request, Senator Eagleton. I will recess until Senator Roth returns.

Senator Eagleton. I will vote.

[A short recess was taken.]

Chairman Roth. The committee will please be in order.

Senator Eagleton?

Senator Eagleton. We were exchanging on the unusual things that happen in cases like the *Canal* case.

Back to *Canal,* did you become aware, Mr. Lorenz, in the late months of 1984 that the inspector general was going to investigate ERA to gather information on how it is operated, how it is managed, since many of ERA's functions are reduced in scope, in terms of planning to prepare for the function, so forth?

Mr. Lorenz. I didn't hear the last part.

Senator Eagleton. I will shorten it. Were you made aware around November 1984 that the inspector general of the Department of Energy was going to investigate ERA, your agency?

Mr. Lorenz. Yes, approximately.

Senator Eagleton. Yes. Didn't he write you on November 19, 1984, IG Richards, a memo to the Administrator of the ERA, Rayburn Hanzlik?

Mr. Lorenz. I don't have any specific recall.

Senator Eagleton. Well, around that time, OK?

Mr. Lorenz. I acknowledge that that is probably around——

Senator Eagleton. Around that time. Did you know at around that time that part of his investigation would include the *Anchor* and *Canal* cases?

Mr. Lorenz. No, sir; not specifically.

Senator Eagleton. Not specifically?

Mr. Lorenz. If I recall correctly, the memo that you are referring to——

Senator Eagleton. It wasn't stated in the memo, but did they learn?

Mr. Lorenz. It was very general.

Senator Eagleton. Did you learn verbally in addition to the memo that Anchor and Canal were going to be part of the investigation?

Mr. Lorenz. It seems to me that I learned, to my best recollection, perhaps sometime in December.

Senator Eagleton. All right, December. Let's say in November, you got the memo and it did not mention Anchor and Canal, but in December you learned somewhere or another that Anchor and

Canal would be part of the picture to be looked into by Inspector General Richards?

Mr. LORENZ. Yes, sir.

Senator EAGLETON. OK. Did that please you, displease you, agonize you, worry you? What was your emotional reaction to that, if any?

Mr. LORENZ. When I hear that it was one of the cases under scrutiny—the way I learned was Mr. Landesman had told me what he had made conclusions about what it is they were looking into based upon his conversations with some of the inspector general's staff, as well as his conversations with Mr. Jackson.

Senator EAGLETON. It wasn't pleasing to you, was it? You and your folks were going to be investigated on how you operated.

Mr. LORENZ. Actually, I understoood the inquiry to be one not of the inquiry you are conducting here, but one of the general question of cases, more than one case.

Senator EAGLETON. Cases, and then you heard in December, *Anchor* and *Canal?*

Mr. LORENZ. Being one of the cases——

Senator EAGLETON. Part of it.

Mr. LORENZ. Cases regarding reasons or propriety of the issue——

Senator EAGLETON. No one likes being investigated. You weren't terribly pleased by that?

Mr. LORENZ. I'm not terribly pleased by any inspector general audit or investigation.

Senator EAGLETON. That is what I'm getting at. That's my question.

Chairman ROTH. Again, I want the witness to have the opportunity to complete his answers.

Senator EAGLETON. He wasn't terribly pleased. I think that is a very sensible answer.

Mr. LORENZ. Sir, you asked me whether I learned of Canal and Anchor. I learned of the scope of the inquiry being that of Federal Register notice publication. The fact of Anchor and Canal being included, certainly until other kinds of allegations started being made, really did not specially concern me any more than it had—than the concern I had about other cases in which someone would criticize the Federal Register notice not being issued for some months after issuance of the PRO.

We had undergone similar criticism from Chairman Dingell about a number of proposed remedial orders, some of which were with major refiners, in which there was a gap of time. Our explanation had been that that was often used as a settlement device during the pendency of negotiations.

Senator EAGLETON. This just wasn't Chairman Dingell. Chairman Dingell may have sort of nudged IG Richards, but IG Richards was going to do the investigation. Is that from whom you got the notice of November 19?

Mr. LORENZ. Yes, sir.

Senator EAGLETON. So you were not very terribly pleased, or whatever the words were, and that is a very human and natural response.

When did you first learn that a newspaper reporter, or plural, were nosing around about Anchor and Canal?

Mr. LORENZ. My recollection is either late February or early March, somewhere in there.

Senator EAGLETON. Did the reporter, Mr. Pound from the Washington Post, call you?

Mr. LORENZ. Yes, sir.

Senator EAGLETON. I mean Wall Street Journal?

Mr. LORENZ. Yes.

Senator EAGLETON. Did he make an appointment to come out and see you?

Mr. LORENZ. I never actually met with him. I talked with him on the phone.

Senator EAGLETON. More than once?

Mr. LORENZ. Yes.

Senator EAGLETON. At length?

Mr. LORENZ. On at least one occasion. At length; yes.

Senator EAGLETON. At length. Did that not terribly please you, too?

Mr. LORENZ. I was as pleased with it as I am about this inquiry, sir.

Senator EAGLETON. Oh, it was as bad as that?

Mr. LORENZ. It's the same. I was not pleased.

Senator EAGLETON. So this was worse than IG Richards. I know you are not pleased about this inquiry, so you must be really displeased when the Wall Street Journal has spoken.

Mr. LORENZ. Perhaps I didn't make my clarification clear enough. My displeasure at the IG's investigation was the ordinary kind of displeasure associated with any sort of inquiry; not about a particular case, but about practices generally. It was the Federal Register notice question which I understood to be afoot there.

I had no special displeasure about Anchor or Canal any more than any other case. I knew we would have to explain what the reasons were, and I figured, as usual, the investigator would come to some conclusion about something that could be done better.

Senator EAGLETON. Then the funny thing happens: After the IG is poking around, you know in December that *Anchor* and *Canal* are going to be amongst the whole body of cases that are going to be looked into the IG, and then you know specifically in February or March, because Mr. Pound interviews you, one time at length, about Anchor and Canal.

Whoops, on April 18, 1985, the Canal PRO, at long last, is issued by Mr. Landesman?

Mr. LORENZ. Yes, sir.

Senator EAGLETON. What an interesting sequence of events. Canal, sleeping like a pussy cat, going through the eternal draft and redraft process, hung up because of supposedly, Cities Service. But it is a little more like Dorchester, says Anthony Miles.

All of a sudden, the fog lifts, and Canal can move when the Wall Street Journal and the inspector general start getting on the trail. Doesn't look very good, does it?

Mr. LORENZ. I hate to be redundant, but I think it is significant that the *Cities* case was issued several weeks before that.

Senator Eagleton. How long ago had the *Dorchester* case been issued?

Mr. Lorenz. Years ago. As a matter of fact, I was just advised during the break that the *Dorchester* case was actually issued in early 1982.

Senator Eagleton. Yes. And now back to the Dick and Diana memo. We did the Dorchester paragraph, and then there is a middle paragraph. "There is press and congressional interest because of a call from OMB to Hanzlik, at one point sensitive—" underlined, exclamation point, "—mayble written by Anthony Miles."

Anthony Miles is a competent lawyer, isn't he? He works under you or with you. Right? Anthony is a competent lawyer that works with you?

Mr. Lorenz. Very definitely.

Senator Eagleton. And this was part of the file pertaining to the issuance of the PRO on Canal, that thick file that has been put in the record? It has got letters from Landesman in there, et cetera, right?

Mr. Lorenz. I assume, yes.

Senator Eagleton. So even, just adding more to the uniqueness of the Canal PRO, is the fact that in the very file, the very file that backs up the issuance of the PRO is the congressional interest here because of a call from OMB to Hanzlik, that one point sensitive.

It makes the case even more unusual. Mr. Lynch works for you, doesn't he, or used to?

Mr. Lorenz. I'm sorry. Who?

Senator Eagleton. He works for you, doesn't he?

Mr. Lorenz. You said Mr. Lynch?

Senator Eagleton. Yes.

Mr. Lorenz. Mr. Lynch did.

Senator Eagleton. Yes, and he worked a lot on the *Canal* case? He worked a lot on the *Canal* case?

Mr. Lorenz. Yes, I assume.

Senator Eagleton. And he talked to you about it a lot of times, wouldn't he? Didn't he ask you about the PRO? "When are we going to issue the PRO on Canal?" Didn't he?

Mr. Lorenz. Yes.

Senator Eagleton. More than once?

Mr. Lorenz. Oh, I am sure Mr. Lynch asked me about any case he was working on more than once, yes.

Senator Eagleton. Specifically, in the *Canal* case, he asked you about it more than once?

Mr. Lorenz. Yes.

Senator Eagleton. Repeatedly, he asked you about it, several times?

Mr. Lorenz. Several times, yes, over the course of the 1½ years or whatever it was.

Senator Eagleton. Did you finally just get tired of answering him and just ignore him?

Mr. Lorenz. I wouldn't say that, that I ignored him.

Senator Eagleton. Did you want him just to go away?

Mr. Lorenz. I didn't wish to have to deal with facile conclusions about the strength of the case.

Senator EAGLETON. Was it an annoyance to you that this career employee—he is just as career as you—repeatedly was asking you, "Why aren't we issuing the PRO on Canal, and wasn't that vexing?"

Mr. LORENZ. Well, I attempted to explain to Mr. Lynch on a couple of occasions why we did not, and it didn't seem to register.

Senator EAGLETON. The bottom line is, he kept asking, and the PRO was never issued until, as I say, April 18, 1985; after the IG; after the Wall Street Journal; and after Dick and Diana got a note calling it sensitive and referring to Hanzlik and OMB.

Mr. LORENZ. Well, the note apparently was written after it was issued.

Senator EAGLETON. Undated.

Mr. LORENZ. It is undated, but the fact that it says, this is the Canal Refinery PRO for assignment, and was to Dick and Diana for assignment to a litigation attorney——

Senator EAGLETON. When you heard from Crowell about this near zero business and you filed that away in your head, and then Anchor, to use Landesman's words, faded away or fade away, why didn't you just dismiss the *Anchor* case; say:

> Look, you are near zero; these guys were going to pay us a half million, but we are not going to take a half million under false pretenses. We are with the U.S. Government; we don't do business that way. Crowell says it is near zero, we have got to clear some cases out of here; Let that one go.

Mr. LORENZ. I think I would have advised that action, if that had been the only matter pending against the firm, but we did have a prospect of further discussing settlement on the *Canal* entitlement case, and as I explained before——

Senator EAGLETON. Did either Coty Dupre or Dunagan ask for the dismissal of the *Anchor* case?

Mr. LORENZ. Well, I guess in so many words, that's certainly what they would have appealed for or did appeal for when they came to talk to us in 1982. They said they didn't think the case was worth anything, et cetera, and they were offering $500,000 as a way to dispose of this matter and eliminate their litigation expense.

Senator EAGLETON. $500,000, but they didn't ask you to dismiss it for zero, did they?

Mr. LORENZ. No, they didn't ask for zero. But they explained that $500,000 was, in their parlance, the savings of litigation expense and trouble to the company. We hear that all the time.

Senator EAGLETON. Sure. You were of a mind, though, to—it was just worthless to dismiss it; that you had the old *Canal* case internally hanging around?

Mr. LORENZ. As a matter of fact, if I had had some sense in 1982, when they had offered $500,000, that our own calculations were showing almost zero, I guess we would have probably snapped that up.

Senator EAGLETON. Would you take $500,000 today?

Mr. LORENZ. No, sir. Today, we are not sure whether it's more or less, and if it's more or less, how much more or less.

Senator EAGLETON. It might even be less than $500,000 today?

Mr. LORENZ. It's possible. It might be more than——

Senator EAGLETON. If it is possible, you could get Crowell to do another run. It is possible, if Crowell does it, or his minions, the Government may owe Anchor some.

Mr. LORENZ. I think Crowell's minions will be the ones to finally do a calculation.

Senator EAGLETON. But you are worried we may owe Anchor some money, because you have been working closely with the Interior Department on that claim that Anchor or Canal has over there, aren't you?

Mr. LORENZ. No, sir. I testified——

Senator EAGLETON. Did you mention about the Interior Department?

Mr. LORENZ. I testified——

Senator EAGLETON. Weren't you working closely with the general counsel or the IG of the Interior Department?

Mr. LORENZ. Sir, I testified earlier that the Canal thus be offered to couple together their claim against Interior for overcharges with our claims in the *Canal* cases, principally, the *Canal* entitlement case, and——

Senator EAGLETON. Did you verify those with the Interior Department?

Chairman ROTH. The Chair would point out that there is a vote, and the committee is in recess.

[A short recess was taken.]

Chairman ROTH. Senator Eagleton.

Senator EAGLETON. OK. Senator Roth asked you, so as not to belabor it, you categorically denied the central thrust of David Jackson's testimony, to wit: That some time between November 1982 and May 1983, at a meeting in Washington either Lorenz or Landesman or perhaps Landesman, he later said he thought it was Landesman who told him about the high-level Government interest in the case? You flat out deny it?

Mr. LORENZ. Yes.

Senator EAGLETON. OK. And the statement by Wehrle-Einhorn, let's get it briefly here, because I want to quote it right—Wehrle-Einhorn says, and testified over in the Dingell hearing, I will shorten it up, that in the spring of 1983, he was told either by Landesman or Lorenz that someone in the White House or the Energy Department:

> Someone who would hurt us in the budget, was exercising political influence to sideline the Anchor PRO.

Do you deny that you said that to Wehrle-Einhorn?

Mr. LORENZ. I deny saying that to Wehrle-Einhorn. I deny having heard it said to Wehrle-Einhorn or Jackson.

Senator EAGLETON. You deny hearing it? On December 9, 1982, did you tell Mr. Lynch to call Robert Wehrle-Einhorn in Kansas City ERA office, where Mr. Einhorn was working on the price control case against Anchor at that time? Did you tell Lynch to call him about the case?

Mr. LORENZ. I'm not certain that I told him to call him. I told him—my recollection is that I probably told him that since we were in settlement discussions regarding the *Anchor* case, which had been developed in Kansas City, that we would probably want to coordinate the entitlements case with the other case, for example, if we were in settlement discussions, we probably would off, no matter what problems they may have in a document with a legal theory. In any event, even if I had been willing to sign the thing, we would have still held off on issuing it.

Senator EAGLETON. So Lynch calls Wehrle-Einhorn on December 9, 1982, and December 14, to be exact, Lynch calls Wehrle-Einhorn, and Wehrle-Einhorn tells Lynch, "Canal has a holdup in Kansas City with the issuance of the Federal Register notice for 2 months. The Canal has been held." Were you here yesterday when Mr. Lynch testified?

Mr. LORENZ. For much of it, yes.

Senator EAGLETON. We got his notes, and then we got the clean translation. "Canal has held up Kansas City Federal Register for 2 months." That's what Wehrle-Einhorn tells Lynch on December 14, 1982, verified, corroborated by Lynch's notes.

Why would Wehrle-Einhorn tell Lynch that?

Mr. LORENZ. I am sorry. I have no personal knowledge of the conversation, and neither do I have, of course, any idea about what the notes mean. If I had to speculate on the theory, the reading of those notes or that conversation as reported, it sounds as though Einhorn may have said Canal went to see Hanzlik, and they are going to look at the case, and it may also have been coupled with Mr. Einhorn's or Mr. Jackson's conversation with Landesman after the October meeting, in which I'm sure Mr. Landesman advised Jackson that we were going to look at the case; that some more work would have to be done on it, and that in the meantime, the Federal Register notice shouldn't be issued.

So what he's doing is stating the fact as to what the reasons were——

Senator EAGLETON. That is not what Mr. Lynch testifies to. He is the guy who heard Wehrle-Einhorn. He drew him out on this.

Mr. LORENZ. I am speculating.

Senator EAGLETON. An affidavit can't walk in and say, "Put a hold on having something published in the Federal Register."

Mr. LORENZ. Oh, a company, as a practical matter, could come in, and if they raise sufficient question, we probably would commit to them that we wouldn't issue a Federal Register notice until we looked further into it. It would be ridiculous——

Senator EAGLETON. Were you here for Mr. Lynch's testimony yesterday?

Mr. LORENZ. For much of it.

Senator EAGLETON. Were you here when he testified to these notes I am making reference to?

Mr. LORENZ. I'm not sure I heard all of it.

Senator EAGLETON. You were here for a few minutes. You heard the interpretation that Mr. Lynch put upon it. He's the one that heard Wehrle-Einhorn speak.

Mr. LORENZ. I don't recall hearing. I may have stepped out for just a moment yesterday. I don't recall his interpretation of that.

Senator EAGLETON. That Canal had used its influence.

Mr. LORENZ. Oh, OK.

Senator EAGLETON. This is December 1982. Canal had used its influence to have the publication held up in the Federal Register.

Why would Wehrle-Einhorn tell Lynch that? Lynch makes notes, I am going to put them in the record.

Why would Wehrle-Einhorn concoct something like that in December 1982?

Mr. LORENZ. This is December 1982?

Senator EAGLETON. Yes.

Mr. LORENZ. I wouldn't guess that he did. I would guess that he said, "Canal happened to have a meeting, and we are relooking the case." They meaning Washington.

Senator EAGLETON. It is too bad you weren't on the phone, because then I think you might have had the same impression as Mr. Lynch testified to yesterday.

What did you think of Wehrle-Einhorn?

Mr. LORENZ. What did I think of him?

Senator EAGLETON. Yes.

Mr. LORENZ. I think I agree with——

Senator EAGLETON. As a person?

Mr. LORENZ [continuing]. Mr. Jackson's description of him as a walking digest of regulations.

Senator EAGLETON. Brilliant fellow?

Mr. LORENZ. Pardon?

Senator EAGLETON. Very bright?

Mr. LORENZ. Memory of regulatory provisions, yes.

Senator EAGLETON. Honest and upstanding as far as you knew?

Mr. LORENZ. Honest as far as I knew, yes.

Senator EAGLETON. Long career service with the Energy folks?

Mr. LORENZ. Career service as far as I knew, yes.

Senator EAGLETON. What did you think of Jackson back in 1982?

Mr. LORENZ. In which respect?

Senator EAGLETON. Did you think he was a good worker, bad worker? Good negotiator, bad negotiator, honest person, dishonest person?

Mr. LORENZ. I think he's an honest person. I think he was certainly a team player. I think his negotiation style was not my own style.

Senator EAGLETON. I don't think you offered yesterday, Mr. Chairman, and if I did, then I will not be duplicitous, but I will offer at this time, if I didn't yesterday, the Lynch notes to which I have made reference, both yesterday and today.

Chairman ROTH. Without objection.

[The information submitted is in committee files.]

Chairman ROTH. Could I ask the Senator how much longer?

Senator EAGLETON. I am moving, Mr. Chairman, as fast as I can.

Chairman ROTH. I would just point out it is 2:30.

Senator EAGLETON. I understand.

Chairman ROTH. We have two more witnesses.

Senator EAGLETON. I am trying to move.

Mr. Chairman, I referred yesterday to an analysis done by the Inspector General's Office of the Department of Energy on the average amount of time it takes cases like *Anchor* to go from the PRO issuance stage to the publication in the Federal Register stage? The analysis looks at cases involving major refiners and nonmajors separately; it separates them. It was prepared by Ron Stiff of the inspector general's staff on December 20, 1984. The surveys are of 185 nonmajor refiners, and it revealed that the average time from PRO issuance to publication in the Federal Register was 46 days.

Of course, you can contrast that with the *Anchor* case, in which the PRO never has been published in the Federal Register, although it was issued in September 1982, and reissued in January 1985.

Therefore, I offer this analysis by Mr. Ron Stiff of the Inspector General's Office.

Chairman ROTH. Without objection, so ordered.

[The information submitted is in committee files.]

Senator EAGLETON. I am getting near the end, Mr. Chairman.

Mr. Lorenz, did Mr. Hanzlik call you in mid-August of 1983 and ask you something like this, if not the exact words, the gist: "Milt, what were the names of those cases Joe Wright called about?"

Mr. LORENZ. No, sir. As I testified previously, several times, by now, I learned from Mr.——

Senator EAGLETON. Anyone who would swear by affidavit and contemporaneous notes made at the time in August 1984 would be flagrantly mistaken.

Mr. LORENZ. Yes. As a matter of fact, I only learned, only learned later, from Mr. Hanzlik, I think in referring to the meeting Mr. Hanzlik had with Mr. Harvey on August 16, 1984, according to Mr. Hanzlik's calendar. I only learned later of Mr. Hanzlik's conversation with Mr. Harvey, much later, months.

Senator EAGLETON. That is all I have.

Chairman ROTH. Thank you, Mr. Lorenz.

You are excused.

We will next call Mr. Rayburn Hanzlik.

Mr. Hanzlik, will you please raise your right hand? Do you swear the testimony you give before this committee will be the truth, the whole truth and nothing but the truth, so help you God?

TESTIMONY OF RAYBURN HANZLIK, FORMER ADMINISTRATOR, ENERGY REGULATORY AGENCY

Mr. HANZLIK. I do.

Chairman ROTH. Please be seated.

Mr. Hanzlik, it is my understanding that you had anticipated leaving yesterday at 4 o'clock. I want to express the appreciation of the committee for adjusting your schedule and staying to be here today.

Mr. Hanzlik, we understand that you have left the Government. Can you tell us during what period of time you were the Administrator for ERA?

Mr. HANZLIK. Mr. Chairman, I was the Administrator from October 1, 1981, through September 30, 1985.

Chairman ROTH. I understand that it appeared in the oil publication entitled "Oil Express," dated November 16, 1985, and the article quoted you saying, you are personally willing to discuss cases.

Is that an accurate description of your policy while you were administrator?

Mr. HANZLIK. Yes, Mr. Chairman, it is.

Chairman ROTH. Was that a widely published policy?

Mr. HANZLIK. Yes. Let me give you a little bit of background on this. When I took over the position of Administrator in October 1981, there were over 1,500 cases in the program, the enforcement program, and at that time, we were, as a matter of policy, attempting to get all the cases either settled or in litigation by the end of September 1982.

So, in the spring of 1982, I began public speeches, press interviews and contact with the industry to encourage companies to come in and explore settlement. Heretofore, the companies had been reluctant to do so. Apparently, they had tried during the previous administration's program to negotiate settlements, but they were not terribly successful.

We thought that settlements were the best way to resolve these cases in an expeditious manner, to collect the money due, and to speed up the completion of the program.

In June 1982, as part of this policy, I sent, personally, letters to several hundred companies inviting them to come in and discuss settlement, either with myself or with the directors of the field offices. It just so happens that Anchor was one of the companies that I sent a letter to.

These were small companies with violations in dispute that we felt would be relatively straightforward to resolve, and if we could dispose of that inventory, it would help divert our resources to the very big cases.

At that time, we had estimated anywhere from $9 to $10 billion of moneys to collect, with some large cases, involving the largest companies, which, of course, were the focus and the priority of the program.

The small cases, such as *Anchor*, very often took just as much time on the staff's part to litigate and to develop, and to the extent that these small companies could resolve their disputes through settlements, it would free up our resources to focus on the large cases, which, of course, were the big ticket items.

I gave numerous speeches and press interviews. In fact, I provided to the committee staff samples of press coverage in major newspapers throughout the country of our settlement program. This was an effort on our part to get as many cases settled by the end of September 1982 as possible, and I might add parenthetically, we had a great deal of success in this. We were settling a number of cases during that period of time.

Chairman ROTH. Did you meet often with small companies?

Mr. HANZLIK. I had a policy which was part of these pronouncements, that if any company felt they were not getting a fair hearing with a field office which had jurisdiction over the case—and I might add that all cases initially came out of the field structure, that's where the audits were conducted, that's where the files were kept, and that's where the cases were developed; and, so, that was the initial point of contact for any company that wished to discuss settlement—but I had a policy that any company that felt it was not getting a fair hearing by a field office, they could contact me, and I would meet with them.

My purpose in meeting with them was generally to give the company a fair hearing and to make a preliminary determination as to whether it was, in fact, getting a fair hearing in the field office or whether it deserved more attention.

Chairman ROTH. I offer as an exhibit, the Oil Express and copies of other articles, expressing the open-door policy.[1]

Mr. Hanzlik, when was the first time that you met or spoke with Joe Wright, Jr.?

Mr. HANZLIK. The first time I spoke with Mr. Wright was in the course of a telephone call that he made to me on October—September, I believe, 23.

Chairman ROTH. What year was that?

Mr. HANZLIK. 1982, I believe.

Chairman ROTH. Did you ever meet him at a cocktail party prior to that phone call?

Mr. HANZLIK. No, sir, not to my recollection.

Chairman ROTH. You are aware that Joe Wright, Jr., has indicated that he did meet you eariler on at a cocktail party? You have no recollection of that?

Mr. HANZLIK. Yes, sir, I'm aware of that, but I have absolutely no recollection of it.

Chairman ROTH. On September 23, 1982, when did Mr. Wright call you?

Mr. HANZLIK. Mr. Chairman, I couldn't tell you the time of day. I do not maintain telephone logs, and so I just don't remember.

Chairman ROTH. But you do recall that he called you on that day?

Mr. HANZLIK. I certainly do.

Chairman ROTH. If you have no log, how do you happen to recall.

Mr. HANZLIK. How do I recall the phone call?

Chairman ROTH. Yes.

Mr. HANZLIK. It's one that you don't forget. But the date itself, I did not know until learning it through the investigative process in this matter.

Chairman ROTH. What did Mr. Wright say to you?

Mr. HANZLIK. What I'm going to tell you is my recollection of the substance of the call, because I honestly don't remember the precise words, bearing in mind that was over 3 years ago.

But I very well remember four points that he made.

The first point he made was that he was calling in regard to a disputed matter involving a small company in which his family had an interest. The second point he made was that he was not calling to ask for any favored treatment, but that he wanted to bring something to my attention.

The third point, which to me at the time was the most significant point, was that this particular company had been attempting to resolve its dispute with our Kansas City office, and it was apparent to him that this office was not a very efficient office; there seemed to be a lot of delays; he understood that I had a program of trying to expedite this program; and, he wanted to bring to my attention that not only his family's company, but other companies were having great difficulty in dealing with the Kansas City office.

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[1] See p. 379.

And the fourth and final point he made was that he understood that I was willing to meet with companies, was that true, and if it was true, would I be willing to meet representatives of Anchor?

And I said, "yes," to both questions, and I said, if they wish to meet with me, have the company contact me, and I would be happy to meet with them. In closing, I indicated to him that I would get back to him, let him know what happens in terms of an arrangement of a meeting.

Chairman ROTH. No specific meeting was attempted to be set up at that time?

Mr. HANZLIK. No, sir.

Chairman ROTH. Did you believe that either directly or indirectly he was seeking special treatment?

Mr. HANZLIK. No, sir, no, sir. I did not, and let me tell you why. I was getting then, as I got subsequent to that call, a number of calls from Members of Congress, Senators, Congressmen, staff members. I was contacted by the Secretary of Energy; I was contacted by the Assistant Secretary of Energy for Congressional Affairs on behalf of Members of Congress, all relating to various cases and problems in the program.

The word went out that Hanzlik was involved in an effort of trying to expedite the enforcement program, and so I was getting a number of inquiries as to how we could speed up and expedite cases.

I'm not even sure that some of the members of this panel didn't contact me in my office in this regard.

Senator EAGLETON. Are you certain that no one from this panel called you? Did I ever call you?

Mr. HANZLIK. I am not sure.

Chairman ROTH. The Chair is asking the questions at this stage.

Senator EAGLETON. You're not sure?

Mr. HANZLIK. I said I wouldn't be surprised.

Senator EAGLETON. When did I call you?

Mr. HANZLIK. Sir?

Senator EAGLETON. When did I call you?

Mr. HANZLIK. I didn't say you called me.

Senator EAGLETON. You wouldn't be surprised if I called you?

Mr. HANZLIK. I said, I would not be surprised if any member of this committee contacted me, either by letter, phone call, by staff. We had numerous inquiries.

Senator EAGLETON. I have never contacted you in my life.

Chairman ROTH. The good Senator from Missouri is not on trial here, and the Chair is asking the questions. The witness will please——

Mr. HANZLIK. My only point is that when Mr. Wright contacted me——

Senator EAGLETON. Both of you ought to clear out. If you are saying I contacted you, I never contacted the man in my life.

Chairman ROTH. Please proceed.

Mr. HANZLIK. I appreciate that, Mr. Chairman.

So when Mr. Wright called, I took it in the same context. It was a matter being brought to my attention, and could something be done to expedite it. More importantly, though, my reaction to Mr.

Wright's call at the time was his criticism and knowledge that there were problems in my Kansas City office.

Because I had had other complaints on the activities in that office, and my thought at the time, and I remember it very vividly, was, the last guy that needs to know that I have management problems in my Kansas City office is the No. 2 man at OMB. And because I had been working, and I had only been on the job for a few months, to improve the management of our field operation, and I knew that Kansas City was a problem office.

So that was my primary focus based upon that call. That was my reaction to it.

Chairman ROTH. You said you received a number of inquiries from Members of Congress as to specific cases. Do I understand it is your testimony that a simple inquiry is not construed by you as asking special treatment or merely involving the procedure? How do you construe these?

Mr. HANZLIK. Well, there are all kinds, Mr. Chairman. Most of the calls, contacts, and I'm not implying I have had a lot of telephone calls. I have talked on occasion to Members themselves, but more frequently it came in the form letters or inquiries from staff members on the status of a particular case: when is it going to be decided; what is taking so long; would I meet with a particular company? These were normal congressional inquiries which we were used to downtown. It comes in every form in every program.

I never considered these improper. I thought it was part of the Members' job to oversee our activities, and if problems could be brought to our attention in which we were being lax or inefficient, fine. I took these all as helpful inquiries. I took the same attitude toward Mr. Wright's call.

Chairman ROTH. Going back to that specific telephone call with Mr. Wright, did Mr. Wright mention the names of the oil company or companies?

Mr. HANZLIK. Mr. Chairman, I honestly can't remember. To the best of my recollection, he mentioned one of two names to me, either Coty Dupre, or Canal, and that's the best I can tell you. I will tell you why I think it's one of those two in a moment.

Chairman ROTH. Why don't you go ahead and tell us?

Mr. HANZLIK. Well, the reason I say that is that I ran into Mr. Dupre subsequent to the telephone call at a speech I gave to the American Petroleum Refineries Association over at the Hyatt here on Capitol Hill, and when I completed my speech, a group from the audience came up to me. Amongst them was Mr. Dupre, and he introduced himself and I recognized him. It was either his name or the company's, and I believe he introduced himself as the president of Canal, and one of those two names rang a bell, and that is how I connected the two names.

The name Anchor, I did not know the connection with Canal until much later in the process.

Chairman ROTH. Was a meeting set up at that time when you met?

Mr. HANZLIK. At the speech?

Chairman ROTH. Yes.

Mr. HANZLIK. My recollection of that meeting was as follows. I'm sure you're accustomed to giving a speech, and then come down off the podium, and people come up to you. In that speech, I had reiterated my policy that if any company was having difficulties in resolving its cases and felt that there was a justifiable reason to bring it to my attention, to contact me. I made that point quite clear in this speech, because this was a group of small refiners, and the small refining industry was going through enormous financial difficulties at that time.

There were new regulations from the Environmental Protection Agency coming out; the economy was souring, and this was a very sick industry. These firms, many of them, were in precarious financial condition.

I wanted them to know, in particular, that is they were in a hardship situation or needed to resolve their disputes, that I was available to meet with them.

Mr. Dupre was one of, I would guess, 5, 10, 15 people, I don't remember which, who came up to me. He introduced himself, and all I remember is saying to him, "Yes, I have been expecting you to contact me, and if you wish a meeting, call my office," and that was the sum and substance of my recollection of that.

Chairman ROTH. During that meeting, did Joe Wright, Jr.'s name or his position——

Mr. HANZLIK. No, sir.

Chairman ROTH [continuing]. Or the administration ever——

Mr. HANZLIK. No, sir.

Chairman ROTH. When you received the telephone call, were you aware that another individual was present or listening at least to the Wright part of the conversation?

Mr. HANZLIK. No, sir, I was not.

Chairman ROTH. You have no recollection?

Mr. HANZLIK. No, sir.

Senator EAGLETON. Part of the conversation——

Chairman ROTH. Part of it.

Senator EAGLETON. Part of it. He was already talking to Ray when Ms. Ferko came into the room. Ms. Ferko only heard part of the call.

Chairman ROTH. Mr. Hanzlik, when did you first tell anyone at the Department of Energy abaout the phone call from Joseph Wright?

Mr. HANZLIK. The first occasion that I remember in mentioning that phone call was with Mr. Lorenz last fall.

Chairman ROTH. In the fall of 1984.

Mr. HANZLIK. Yes, sir.

Chairman ROTH. Would you describe the circumstances, please?

Mr. HANZLIK. Mr. Lorenz came into my office—and I cannot give you the precise date, but it was some time in the fall, late fall—with a copy of a file memo which had a notation on it about a case involving Anchor Gas Co. I mentioned to the effect that this was a case that had White House or OMB interest, and to talk to Lorenz or Hanzlik about it. Lorenz came in saying, "what's this about?" He said, "I don't know anything about this." And I explained to him that this was a case which involved a company in which Mr. Wright's family had an interest.

Chairman Roth. Do you recall having told a staff lawyer that you first told a reporter from the Wall Street Journal in April 1985?

Mr. Hanzlik. I did what?

Chairman Roth. Do you recall having told a staff lawyer that the first person you told of the call was Ed Pound?

Mr. Hanzlik. No, sir, I don't.

Chairman Roth. After Mr. Wright's call to you, did you give instructions to anyone on the handling of the *Anchor-Canal* case?

Mr. Hanzlik. No, sir, I did not.

Chairman Roth. Did you ever discuss the substance of the case with Bob Wehrle-Einhorn, David Jackson, John Crowell, Tom Elliott, William Lynch, or Gloria Sulton?

Mr. Hanzlik. No, sir, I have not.

Chairman Roth. After the October 22, 1982 meeting with representatives of Anchor, did you attend any other meetings?

Mr. Hanzlik. No, sir. Yes, I did.

Chairman Roth. When was that?

Mr. Hanzlik. November of the following year.

Chairman Roth. Who was present at that meeting?

Mr. Hanzlik. The November 1983 meeting was attended by myself, and Mr. Lorenz, Mr. Dupre and his attorney, Mr. Dunagan.

Chairman Roth. What was the purpose of the meeting?

Mr. Hanzlik. The meeting was at Mr. Dupre's request, and he came in and discussed the possibility or the proposal of applying the credit they thought the company had coming to it from the Department of the Interior for some crude oil transactions to their liability with the Department of Energy, basically, trying to get two agencies to balance their accounts.

Chairman Roth. If, as we heard earlier today, that those working on the case saw roughly zero liability, why would you reject that offer out of hand?

Mr. Hanzlik. Which offer is that, Mr. Chairman?

Chairman Roth. The one that was made in November 1983?

Mr. Hanzlik. Well, my reaction to their proposal was that it was absolutely unworkable, as you had two separate Government departments involved. There was a great deal of controversy with lawsuits between companies and the Department of the Interior on the whole issue of liability between the U.S. Government and companies that bought Government-owned crude oil. Our cause of action was entirely a separate matter, and it just did not make any sense to me. And it seemed to me, if it did make sense, it would be a horribly complicated process to even consider it.

My instructions or suggestion to Mr. Dupre, at that time, as I recall them, were, "If you're interested in applying whatever credit you believe you have coming from the Department of the Interior, go collect it, and come and give it to us." My message to him was "We are not in a position to do it for you."

Chairman Roth. During the November 1983 meeting, was your phone conversation with Joe Wright or his interests in the company or his position referred to in any manner?

Mr. Hanzlik. No, sir, it was not.

Chairman ROTH. Other than the two meetings, the one in October 1982 and the second one in November 1983, did you ever discuss the *Anchor* or *Canal* cases with Lorenz or Landesman?

Mr. HANZLIK. Would you give me those dates again, Mr. Chairman?

Chairman ROTH. October 1982 and November 1983.

Mr. HANZLIK. I think I discussed the case briefly with Mr. Lorenz just prior to the meeting in November 1983 to get up to date as to what its status was. I may have, but I don't have any specific recollection, asked about the cases in the course of our monthly management meetings in Washington. I do not, as a matter of course, monitor these particular cases.

Chairman ROTH. You were here yesterday during the proceedings?

Mr. HANZLIK. Yes, sir, I was.

Chairman ROTH. Did you ever mention the name of Joe Wright, Jr., to either—to any of the following: Tom Elliott, David Jackson, Wehrle-Einhorn?

Mr. HANZLIK. No, sir.

Chairman ROTH. Did you ever mention any OMB, high interest in OMB or White House?

Mr. HANZLIK. No, sir, I did not.

Chairman ROTH. Did you ever try to influence in any way directly or indirectly, the special handling of these two cases?

Mr. HANZLIK. No, sir, Mr. Chairman, and if I may, let me explain why. I learned very early upon my being sworn in to this job both of the scrutiny that our activities receive from the House Oversight Committee and the importance of shielding the professional staff from any appearance of influence politically.

We were dealing here with a program that was very controversial, that from time to time got a great deal of press attention. We were dealing with great sums of money in dispute. And in particular, we were watched inch by inch, minute by minute, by the House Oversight Committee. And so I, as a matter of policy, generally would shield my staff from what I considered political interest or inquiries on cases.

So as a result, quite often, when I was inquired about the status of a case, whether it was a Member of Congress or whoever, I would not tell my staff about it, because my view was, I wanted them to treat the case on its merits, and not to have any burden on their shoulders that the case neded to be treated differently.

So for that reason, in particular, I would not have told anybody of Mr. Wright's phone calls, as I did not tell them in repeated instances about other phone calls I got. What I did was simply check into the matter and make sure that something was happening to move the matter along.

Chairman ROTH. Did you aid in the preparation of a document entitled, "Enforcement History and Summary of Enforcement Activity"?

Mr. HANZLIK. Yes, sir, I did. I wrote it.

Chairman ROTH. What did it discuss?

Mr. HANZLIK. Well, that was an effort on my part at the time or shortly after the Wall Street Journal article appeared in early May to put down in draft form my understanding of what happened and why. This was a possible one-page summary of the background on these cases which might have been used as a press hand-out or an answer to press inquiries by the Department.

It was based upon the knowledge I had at that time of what happened in these cases. It was based on my knowledge and understanding. It was never used for any official purpose, and it was not used by the press office. It was really my effort to try to put down on a piece of paper what I thought had happened.

Chairman ROTH. Now, it is my understanding that this document stated that between April 1983 and August 1984, there was little activity on small case settlements including Anchor and Canal.

Mr. HANZLIK. Mr. Chairman, I think that is a very important point to this committee's inquiry, and I would like to share with you a little bit about the climate at that time in the program.

In November 1982, which was 1 month after the Anchor-Canal settlement discussion began, we had a new Secretary of Energy, Mr. Hodel, and simultaneously with Mr. Hodel becoming Secretary of Energy, the Wall Street Journal ran a front-page story on a proposed settlement we had with Mobil Oil Co. It was a highly critical article. It raised serious questions about a proposed settlement with Mobil, and as a result of that article and the ensuing questions about the Mobil settlement, the Secretary and his staff initiated a review of the entire settlement program.

This went on for almost a year in which we were in the process of reviewing our settlement policies, procedures. Late that spring, in 1983, a new general counsel came aboard and got into the review process, which prolonged it.

So for a period of time, I think over 12, or 13 months, all settlement activity, particularly with the small cases, just came to a halt. Many cases which were in the process of being negotiated were put in limbo, because we were grappling with some very serious policy questions about a settlements program, with our entire focus on the big companies.

At the same time, there was intense congressional interest in this issue. And so Mr. Lorenz and Mr. Landesman, in particular, were working overtime along with the rest of the senior staff in grappling with this very important problem.

It doesn't surprise me in retrospect that cases like *Anchor* and a number of other small cases got pushed aside, because people only have so many hours a day to worry about these things. And I cannot stress or emphasize the importance of this effort. It had top-level interest in the Department and consumed an enormous amount of our attention and time.

Chairman ROTH. So are you telling us, in effect, that for this period of time, the Department of Energy pretty much closed down its enforcement activities?

Mr. HANZLIK. No, that's not what I am saying. I am saying that what had been a very active, aggressive program to encourage settlements, which I initiated in the spring and summer of 1982, beginning in 1983 basically came to a halt.

From 1983 until probably the fall of 1984, few settlements were arrived at. The settlements curve just drops dramatically, because the senior people in the agency, in particular the field directors, who also were involved in settlements, simply didn't know the guidelines as to how to proceed, and so it just came to a halt. I don't know the numbers, but there were very few settlements that were negotiated during that period of time.

Chairman ROTH. Is there any statute of limitations on these cases, such as the Mandatory Pricing Regulations on Entitlements?

Mr. HANZLIK. No, sir, unfortunately, there is not.

Chairman ROTH. After the September 23, 1982, phone call from Mr. Wright, did you speak with Mr. Wright again, either on the telephone or in person?

Mr. HANZLIK. I spoke with him on the telephone to report, and I am not sure at what juncture. It was either that a meeting had been set up, or that it had taken place. But it was just a very brief report to followup on his request for a meeting.

Chairman ROTH. Did you have a further meeting?

Mr. HANZLIK. Further meeting with Mr. Wright?

Chairman ROTH. Yes.

Mr. HANZLIK. On this issue?

Chairman ROTH. No; any meeting whatsoever?

Mr. HANZLIK. I had no further meetings with Mr. Wright or discussions with Mr. Wright on the *Anchor* enforcement matter. I had a meeting with him in January 1983 I believe, with respect to a position that was opening up on the OMB staff. It was basically a discussion or interview on that position.

Chairman ROTH. How did this meeting come about? Who initiated it?

Mr. HANZLIK. Well, the meeting in January of, I believe, 1983, and again, I don't have a recollection on my calendar on this—I was contacted by the White House personnel office. I cannot tell you precisely who it was. I have several names that I have given your staff who it could be, but in this business, we are in constant contact with that office for a number of reasons—for appointments and for getting staffed up—and so I just don't remember who it was. But whoever it was called me and said that Analise Anderson, who was one of the Associate Directors at OMB, was leaving, and they were looking for possible candidates to fill that job, and was I interested?

I had made it known when I took the position at ERA that I really only intended to stay for a year, and I came back somewhat reluctantly from the west coast, as this was my third tour in Washington. And so there had been some interest when I was initially recruited to take this job, that if I would take the position, which everybody considered a very tough one, and a very unpopular one, that I would be able to, at some point, move into something more agreeable.

Chairman ROTH. That prediction turned out true, didn't it?

Mr. HANZLIK. Senator Gore and I had a conversation when I first came in. He warned me at that time, and we have chuckled about it since then, that this was not a very nice way to spend 4 years of one's life.

Be that as it may, the White House personnal office was looking for something for me to keep me in Washington. That was my interpretation, anyway. So I expressed some interest in this position.

Consequently, they set up a meeting for me with the staff member in the White House personnel office who was handling the

OMB appointments, and that man, as I remember, was a fellow named Dennis Patrick. I met with Mr. Patrick, and he described to me in more detail the position that was going to become vacant and tried to find my level of interest. I said I had some interest in it, but that I really needed to know more about what the job was going to be focusing on in the months and years ahead because things were changing at the time in terms of OMB's priorities. He said I needed to meet with Mr. Wright, because he was one of the people who would be instrumental in selecting the individual to fill that position.

And he said, so you will have to meet with Mr. Wright. I don't remember who set up that meeting with Mr. Wright, whether it was done by his office or my office, but the meeting was set up.

Chairman ROTH. By his office, who do you mean?

Mr. HANZLIK. Well, I don't know. I was told, contact Mr. Wright's office and set up a meeting or whether his office called me. I did not put that on my calendar because I did not want my staff to know that I was interviewing for possible job change. Nothing creates more chaos in an agency if the employees think their boss is interviewing for something else. So I kept that very much to myself.

I met with Mr. Wright in his office. It was a relatively brief meeting, I would say 15 or 20 minutes. We talked only about the position. I explained to him that I was really not anxious to stay in Washington any longer. I had worked in the White House for a number of years in previous administrations. I didn't particularly like the long hours, but at the same time, I would give it some thought.

Several days or some period of time thereafter, I called back and left a message for him to scratch my name from the list, that I was not interested.

Senator RUDMAN. Mr. Chairman, just repeat that last answer. I want to make sure I heard it.

Chairman ROTH. Could you repeat your last answer?

Mr. HANZLIK. The only point I said was at the close of my discussion with Mr. Wright on this position, I indicated that I was thinking about it and would let him know whether I had any continuing interest in it. I want to make it very clear that this was not a job offer. There were other candidates involved. It was really to determine how serious my interest was in pursuing this. And so I left it with Mr. Wright that I would get back to him and let him know if I had any interest, and I did that subsequent to the meeting. I don't know how many days it was, but I called back, left a message with his secretary or somebody in his office that simply said, tell Mr. Wright that I have no interest in pursuing that position, and that was the end of it.

Senator RUDMAN. Thank you.

Chairman ROTH. Did you have any subsequent contact with Mr. Wright?

Mr. HANZLIK. In terms of conversations or discussions?

Chairman ROTH. Yes.

Mr. HANZLIK. No, sir, Mr. Chairman. Not until this hearing.

Chairman ROTH. Were the two cases, Anchor or Canal, handled differently because of Mr. Wright's financial interest or his phone call to you?

Mr. HANZLIK. No, sir; they were not.

Chairman ROTH. Senator Eagleton.

Senator EAGLETON. Thank you, Mr. Chairman.

Mr. Hanzlik, I have no fault with what is referred to as the open door policy. But the issue here is how the door is opened and for what purpose is it opened. There is nothing wrong with a small company or a large company or a middle-sized company seeking you out, whether at luncheon and then making a followup appointment and legitimately discussing with you and your aides and your lawyers, et cetera, a settlement of a dispute that may be pending in the Department.

You and your lawyers give your side of the case, and why you think it is a good case, the fellows on the other side give their side of the case and why they think their case is so good, and somebody says, well, it is worth a million or it is worth $2 million or it is worth this or it is worth that. There is nothing wrong in settlement.

What is wrong, in my judgment in this instance, strenuously disputed by others, is if a Government official, high Government official seeks to use his influence to have a case not settled, but graveyarded in the morgue. And that is what happened in Anchor and Canal. They went to the morgue.

Canal only recently emerged a few months ago, after you left your post when inspector general of the Department of Energy and the Wall Street Journal started investigating as to why these two cases had been morgued.

Now, let me ask this: Has any Senator of the United States ever called you about a company in which he had a financial interest, asking for you to meet with his family, company representatives to settle a case?

Mr. HANZLIK. Senator, I don't know if that ever occurred or not. I don't know.

Senator EAGLETON. You don't know?

Mr. HANZLIK. I have had calls from Members on companies, but have never known whether or not they had any interest in them.

Senator EAGLETON. You don't know whether a Senator of the United States ever called you about his family company?

Mr. HANZLIK. No, sir.

Senator EAGLETON. Identified it was his family company?

Mr. HANZLIK. No member has ever identified a family company.

Senator EAGLETON. Oh, no Senator has called you—has said, I'm calling you about a family company?

Mr. HANZLIK. No, sir.

Senator EAGLETON. Any House Member?

Mr. HANZLIK. Not to my knowledge.

Senator EAGLETON. Called about and identified his family company?

Any full member of the Cabinet ever call?

Mr. HANZLIK. No, sir.

Senator EAGLETON. Any Justice of the Supreme Court ever call you and identify his family company, any Governor of the United States?

Mr. HANZLIK. Not to my knowledge, no, sir.

Senator EAGLETON. Any other State official below the rank of Governor identify this is his family company?

Mr. HANZLIK. I have no recollection of it.

Senator EAGLETON. Any member of the State legislature of the 50 States ever call you and identify it was their family company they were calling about?

So let's sum it up: During your entire tenure in that office did any official holding an office call you and identify himself as calling with relationship to a family company?

Mr. HANZLIK. No, sir.

Senator EAGLETON. One, one.

Mr. HANZLIK. Pardon?

Senator EAGLETON. One.

Mr. HANZLIK. One. I might add that——

Senator EAGLETON. Who was the one?

Mr. HANZLIK. No; I was going to——

Senator EAGLETON. Who was the one?

Mr. HANZLIK. On a family company?

Senator EAGLETON. Yes.

Mr. HANZLIK. Mr. Wright. My only comment was going to be that it is a fair assumption on my part that some Members of Congress who call on behalf of companies may be getting contributions from——

Senator EAGLETON. But they didn't call about their family company in which they had a family interest.

Mr. HANZLIK. They may be getting financial interest from contributions.

Senator EAGLETON. What, bribes?

Mr. HANZLIK. PAC's.

Senator EAGLETON. PAC support.

Mr. HANZLIK. Senator, I ran for office. I know how the business of financing campaigns works. I understand how the system works.

Senator EAGLETON. Within the whole universe of the United States, one public official called you on behalf of his family company?

Mr. HANZLIK. That I know of.

Senator EAGLETON. That you know of.

Mr. HANZLIK. That I know of.

Senator EAGLETON. Joe Wright. Did that call offend you?

Mr. HANZLIK. Did it offend me?

Senator EAGLETON. Yes.

Mr. HANZLIK. I wouldn't use the words offend me. I was not happy to find out that he was aware of my problems in the Kansas City office. That was my reaction.

Senator EAGLETON. Would you say you didn't appreciate the family connection here?

Mr. HANZLIK. That is right.

Senator EAGLETON. So you didn't appreciate getting a call from Joe Wright about his family company?

Mr. HANZLIK. That is right—the words I used or that Ed Pound used in his Wall Street Journal interview.

Senator EAGLETON. Was Ed Pound right?

Mr. HANZLIK. I think he fairly characterized my comment.

Senator EAGLETON. His call was unique?

Mr. HANZLIK. No, sir.

Senator EAGLETON. We just established that. No other public official in the United States called you about his family company. Take your time to think about it. There is another public official that called and said, "I'm calling about my family company." Tell me who it was?

Mr. HANZLIK. I told you. I already answered that question, Senator.

Senator EAGLETON. So right then and there, you have got an official twice on the open door policy, unique, Joe Wright, coming through the door for him family company, very separate and distinct from the situation where Joe Six Pack on behalf of Dreadful Oil comes in to see you on a settlement and has got grease all over him and just wants to settle his claim. This is Joe Wright.

When Joe called you, did he call you Ray?

Mr. HANZLIK. I believe so.

Senator EAGLETON. You have never met Joe Wright before?

Mr. HANZLIK. No, sir.

Senator EAGLETON. He didn't call you Mr. Hanzlik?

Mr. HANZLIK. I don't believe so. But that's not unusual, because when you're in the administration at a senior level, everbody calls you by your first name.

Senator EAGLETON. He had never met you. You are a rather high ranking public official. This is a significant postion that you have. Right off the bat, Ray, he didn't tell you that Ms. Ferko sooner or later, and it was later that she got on the line?

Mr. HANZLIK. I do not recollect that, Senator.

Senator EAGLETON. So you don't know what part in the conversation that Ms. Ferko got on the line?

Mr. HANZLIK. No, sir.

Senator EAGLETON. You were here yesterday when Ms. Ferko testified?

Mr. HANZLIK. I was.

Senator EAGLETON. She said by the time she got to the room, Joe had his hand over the mouthpiece and said, I'm talking to Ray Hanzlik.

Mr. HANZLIK. Based upon her testimony, I would conclude that she heard all of the entire conversation.

Senator EAGLETON. That is not her testimony. She doesn't conclude that much. You are really concluding for her.

Mr. HANZLIK. I did, because she reiterated my conversation.

Senator EAGLETON. That is what you want to do. She heard part of the conversation between Joe and Ray, these two strangers, the Joe and Ray strangers.

Senator RUDMAN. I ask my friend from Missouri.

Senator EAGLETON. No, I can't.

Senator RUDMAN. I would like to hear the answer. I don't care what the questions are, I want to hear the answers. If this is a hearing, it is a hearing.

Senator EAGLETON. He is hearing you.

Senator RUDMAN. I want to hear what he said.

Senator EAGLETON. He is——

Senator RUDMAN. At least let him prove himself wrong.

Senator EAGLETON. Heard part——

Senator RUDMAN. In the bsence of the chairman——

Senator EAGLETON. You're the chairman.

Senator RUDMAN [continuing]. The witness will be allowed to answer the question. You have got all the time you need. Just let him answer the question.

Senator EAGLETON. Miss Ferko said that Ray Hanzlik, that Joe was already on the line, and I'm talking, it is an active verb. I am talking to Ray Hanzlik and I think he identified your title or whatever. So conversation was underway. That's her testimony. No better judge fo that than Ms. Ferko. Certainly not the guy on the other side of the line.

And then the conversation went on and on, and it was Ray this and Ray that, and the four-point plan, the four-point plan. That he remembers meticulously these four antiseptic points. He didn't remember the date, he couldn't remember whether even Anchor was mentioned, thinks that maybe Anchor—well, I'm not so sure Anchor was mentioned, maybe it was Canal, maybe it was Coty Dupre, but I do remember the four points. Wilson had 14 points. God has Ten Commandments, and Hanzlik remembers the four points.

So what happened after the call is that the *Anchor* and *Canal* cases disappeared, for all practical purposes. And disappeared in strange ways. Now, we have heard the rationale that things were closing up over there and things weren't being settled.

But nothing is as strange as how *Anchor* and *Canal* were handled. Were you aware when Joe called you, Mr. Hanzlik, on September 23, that a PRO on Anchor had been issued in Kansas City?

Mr. HANZLIK. No, sir.

Senator EAGLETON. You weren't aware of that? Joe didn't tell you that?

Mr. HANZLIK. No, sir.

Senator EAGLETON. Were you aware that a meeting was set up to be held on September 24 in Kansas City?

Mr. HANZLIK. No, sir, I was not.

Senator EAGLETON. Joe didn't tell you that? When you hung up from talking to Joe, what did you do next with respect to Joe's call?

Mr. HANZLIK. I did nothing.

Senator EAGLETON. Did nothing. Did Coty Dupre and Mr. Dunegan and others at some subsequent point show up for a meeting?

Mr. HANZLIK. Well, I want to reiterate, all that Mr. Wright asked is he asked a question. Was I meeting with companies, and if so, would I meet with officials from Anchor? And I said in answer, yes, on both counts.

Senator EAGLETON. No, not Anchor.

Mr. HANZLIK. Well, whatever. I am using Anchor generically. The company. My closing comment was, have the company contact me if they wish to have a meeting. That was it. There was nothing for me to do except to wait for a call from the company.

Senator **Eagleton**. Then Coty Dupre contacted you?

Mr. **Hanzlik**. That is correct.

Senator **Eagleton**. And that led to the meeting on what date?

Mr. **Hanzlik**. It was in October.

Senator **Eagleton**. October 22, I think the record shows. That took place in your office?

Mr. **Hanzlik**. It took place in my office at 1:30 in the afternoon of October 22.

Senator **Eagleton**. OK. You have the cast of characters there. It included Lorenz and Landesman and Dupre and Dunegan and maybe that other guy. Was he there?

Mr. **Hanzlik**. No, there were just four of us. Five of us.

Senator **Eagleton**. Five.

Mr. **Hanzlik**. Excuse me.

Senator **Eagleton**. And what case or cases were discussed?

Mr. **Hanzlik**. Senator, in my reccollection of that meeting I don't remember the name of the company. There was a discussion in which Mr. Dupre did most of the talking. He reiterated the problems they were having in the Kansas City office and their concern that the proposed remedial order was flawed, that it did no contain certain data. They talked about the firm's financial condition and all of the problems they were having specifically. And basically they felt that the case that had been brought against them was way overstated and they wanted to find a way to resolve it.

In that meeting, as in all meetings that I had been present, I basically listened. And then at the end of the meeting, I would reiterate our policy that we were interested in settlement based upon a reasonable and factual basis and that it appeared to me like there were some disputed facts in this case, and suggested that the company meet with the professional staff and go over the problems they felt needed attention and go from there.

That was precisely what I——

Senator **Eagleton**. In the call from Joe——

Mr. **Hanzlik**. Excuse me.

Senator **Eagleton**. In the call from Joe, you were probed on this by Senator Roth—you thought that Canal was mentioned or Coty Dupre, because he is president of Canal, but the meeting, you don't know what company was——

Mr. **Hanzlik**. I don't recall the name of the company that was mentioned. The one point I forgot to mention earlier was that when Mr. Dupre introduced himself to me at the Hyatt speech, he introduced himself as Mr. Dupre of Canal, and so the name Canal was what I connected with——

Senator **Eagleton**. And then he wrote you a followup letter.

Mr. **Hanzlik**. Pardon?

Senator **Eagleton**. Then he wrote you a followup letter.

Mr. **Hanzlik**. That is right.

Senator **Eagleton**. But it may have been on other stationery.

Mr. **Hanzlik**. That is right.

Senator **Eagleton**. But he introduced himself as president of Canal.

Mr. **Hanzlik**. That is right.

Senator **Eagleton**. You see, why that is serious is that Mr. Landesman never hears of Canal until much later on in the game.

but Mr. Lorenz, who testified just a little while ago, he knows about Canal a lot earlier.

Mr. HANZLIK. Well, all I can tell you is——

Senator EAGLETON. Well, no. Let me ask my question.

Why is it you met Dupre as president of Canal? I think maybe that is what you heard Joe say on the phone. He comes there, he writes you on Anchor stationery, yet Landesman, a total babe in the woods at this point in time on Canal, and Lorenz knows about both, and you don't remember the names of the company or companies under discussion. That is a quandry.

Mr. HANZLIK. Senator, I met with dozens and dozens of companies. I could not tell you the names of most of the companies I met with.

Senator EAGLETON. But this was a unique call that triggers this.

Mr. HANZLIK. But not unique to me. They were getting the same treatment as every other company. In my mind, there was nothing special being done. That was not Mr. Wright's request. All he wanted was a meeting, a chance for these people to meet with me, which, as a matter of point in fact, that if Mr. Dupre had called me himself withpout advance call with Mr. Wright, exactly the same thing would have happened.

Senator EAGLETON. Yes, might have happened. Do you know why this was different? Joe Wright blessed this undertaking.

Mr. HANZLIK. He didn't bless it with me.

Senator EAGLETON. Joe Wright triggered this undertaking.

Mr. HANZLIK. No, sir.

Senator EAGLETON. It was Joe Wright's call that got Mr. Durpe in the office.

Mr. HANZLIK. No, he did not.

Senator EAGLETON. He reported back. He reported back to Joe, we have go the meeting set up.

Mr. HANZLIK. Sure, what's wrong with that?

Senator EAGLETON. Because Joe Wright is Deputy Director of OMB calling about a family company in which he owns $700,000 worth of stock, and it is in jeopardy of going down the tubes. What's right with that kind of a call?

Mr. HANZLIK. Senator, I had two options, with Mr. Wright's call. I could have said to him, yes, I am meeting with any company that requests it, but I will not meet with yours, because you are calling me. Therefore, that company is precluded from having any discussions with the agency. Or I could say, yes, I am meeting with companies, and your company will be treated like everybody else. Those were the two options I had.

Senator EAGLETON. You could recuse yourself.

Mr. HANZLIK. What do you mean recuse myself? I have resigned from all negotiations.

Senator EAGLETON. You didn't recuse.

Mr. HANZLIK. Yes, sir.

Senator EAGLETON. You didn't absolve yourself from your office. You still had supervision over all the cases including *Anchor* and *Canal.*

Mr. HANZLIK. I had no involvment in negotiations as in the development of that case, absolutely none.

Senator EAGLETON. How many meetings did you sit in on?

Mr. **Hanzlik**. I sat in on the initial meeting in October, and I sat in a year later on the Department of the Interior discussion. It sat in no meetings in terms of settlement discussions. I didn't know what the issues were. As a matter of policy, I simply did not have time in my capacity as administrator to get involved in specific cases.

Senator **Eagleton**. When you went into the October meeting, you didn't know zilch about Anchor?

Mr. **Hanzlik**. No, sir.

Senator **Eagleton**. You just wanted to fly blind?

Mr. **Hanzlik**. Pardon?

Senator **Eagleton**. You just wanted to fly blind. You didn't want any briefing from the staff?

Mr. **Hanzlik**. No, my purpose was to give the companies an audience to let them explain what their problems are.

Senator **Eagleton**. But you didn't want a little briefing from your staff, saying what is this?

Mr. **Hanzlik**. Sometimes, I would do that. I would ask what are the issues. I think probably in the case of the Anchor meeting, I may have asked Mr. Landesman or Mr. Lorenz what kind of company, it is, or what field office the case is coming out of, but I couldn't get involved in——

Senator **Eagleton**. Did they tell you about the PRO up in Kansas City?

Mr. **Hanzlik**. No, I don't have any recollection of being briefed for this particular meeting. I had another meeting at 2:30 on that day on the very same issue. They were back to back, so I probably had a busy day that day and did not get involved in specifics.

Senator **Eagleton**. A high Government official didn't set up that meeting, did he?

Mr. **Hanzlik**. I don't know. He could have been a Member of Congress, but I don't have any idea.

Senator **Eagleton**. With a family owned business?

Mr. **Hanzlik**. I don't know.

Senator **Eagleton**. So the second meeting that day could have been a Congressman who identified himself who was calling on a family business?

Mr. **Hanzlik**. Probably most Congressmen are smart enough not to identify themselves as an owner of a family business in a call.

Senator **Eagleton**. I see. A Congressman would be devious and sly, proceed with chicanery. But Joe Wright is commendable for being up front.

Mr. **Hanzlik**. He was very up front and honest about it.

Senator **Eagleton**. He was?

Mr. **Hanzlik**. Yes, sir.

Senator **Eagleton**. This is my family business. Did he tell you how much he owned in it?

Mr. **Hanzlik**. No, sir.

Senator **Eagleton**. $750,000. You said you had a hardship strategy. You said the oil industry was doing poorly within that period of time, a lot of small companies.

Mr. **Hanzlik**. Small refiners.

Senator **Eagleton**. Small refiners.

Mr. **Hanzlik**. Yes, sir.

Senator EAGLETON. Small refiners were in bad shape, and so you had a hardship policy. Therefore, if you had been told that a case that had been priced at $16 million against a small company, Anchor, would, in fact, bankrupt that company and therefore, a settlement for $2 million would permit them to pay the fine and not go into bankruptcy.

Would that have fallen into your policy of hardship, in a hardship settlement?

Mr. HANZLIK. Well, we never call it a hardship policy.

Senator EAGLETON. Those are your words.

Mr. HANZLIK. Pardon.

Senator EAGLETON. Those are your words.

Mr. HANZLIK. That was not a term used in the agency. I used it here, but our settlement policy was that for companies that were in financial hardship that are liable for price control violations, we would attempt to work out settlement agreements which would keep the companies in business and at the same time, pay as much as possible of their overcharge obligations.

So it was a case-by-case basis. We have entered into a number of settlements with companies which could not afford, without bankruptcy, the liability. In some cases, it is time payments. We have a number of cases which are stretching out their payments. And it was my stated policy that we will not, in the course of enforcing our regulations, put any company into bankruptcy.

Senator EAGLETON. I think that is right.

Mr. HANZLIK. And so each case, what we would normally do, Senator, is we would have an independent audit of the company's finances, the principal officers, and we would really find out if, in fact, the company was financially strapped and to what extent and then tailor the settlement accordingly.

In my meeting with Anchor, and Mr. Dunagan on October 22, that was one of the issues they raised. They were in financial trouble.

Senator EAGLETON. I think it is a relevant issue. It is relevant for the Government to try to be as certain as they can that there is something to collect against. If it goes bankrupt, you haven't got much of a find, property to levy against. So by the way, David Jackson and Robert Wehrle-Einhorn agree with you. That is why David Jackson tendered a $2 million settlement on this case the very day after Joe Wright's call in Kansas City. You didn't know anything about it?

Mr. HANZLIK. No, sir; I did not.

Senator EAGLETON. Staff didn't tell you anything about it?

Mr. HANZLIK. I am not sure he knew about it on October 22.

Senator EAGLETON. Lorenz would know about it. He is in charge.

Mr. HANZLIK. Not necessarily. The field offices had approval to tailor their own settlements.

Senator EAGLETON. This is a month after.

Mr. HANZLIK. Senator, I do not recollect.

Senator EAGLETON. Let's give Lorenz credit for having some sense.

Mr. HANZLIK. I do not recollect being briefed on the numbers. I may have, I just simply don't remember.

Senator EAGLETON. Lorenz may have run the shop too well.

Mr. HANZLIK. He runs the shop very well, Senator.

Senator EAGLETON. Computer runs, he keeps them in his head. Did you ever know about that phantom computer run of Mr. Crowell?

Mr. HANZLIK. No, sir; I didn't, not until this whole business was publicized.

Senator EAGLETON. During your duties, did you ever deal with Mr. Crowell?

Mr. HANZLIK. Oh, yes.

Senator EAGLETON. But not on this run on Canal?

Mr. HANZLIK. No, sir.

Senator EAGLETON. Thank you.

Senator RUDMAN. Could I inquire how long, Senator, we need to complete his questions?

Senator EAGLETON. Not terribly long.

Senator RUDMAN. Your time is now up, but being next in line, I think in the interest of continuity and getting the hearing done, the Senator would like to continue, I am perfectly happy to allow that.

I have very few questions for the witness, and I understand Senator Cochran doesn't have any questions?

Senator COCHRAN. Not yet.

Senator EAGLETON. Then I yield, and I may have one followup. I will dispose of those two, and then I will yield, how is that?

Senator RUDMAN. All right, fine.

Senator EAGLETON. Mr. Hanzlik, your version of the phone call and Joe Wright's version of the phone call are not in sync. You told the Wall Street Journal:

> You can have the people come in here to find people who are more reasonable.

Is that what you told the Wall Street Journal?

Mr. HANZLIK. I have great respect for Ed Pound's accuracy, so I assume I did.

Senator EAGLETON. Joe Wright's version of it, from his testimony before this committee, is:

> I made a brief phone call to Ray Hanzlik, Administrator of Energy, ERA, and asked him if he or some of his people in Washington could simply meet with the company representatives to see for themselves what the problem was.

Now, this isn't just cutesy differentiation in semantics. Your version is that Joe wanted a meeting with some people who could be more reasonabale, more reasonable in this context means save Anchor or Canal or both some money in the settlement. Joe's version is simply to meet with the company representative to see for themselves what the problem is.

Do you see the difference in those two versions between what you told the Journal and what Joe testified to a few months ago?

Mr. HANZLIK. Well, you are quoting what I said to the Journal. What I said to Wright, I don't see the relationship between what he said——

Senator EAGLETON. No——

Mr. HANZLIK. His comment to me was, in the phone call, was he mentioned the difficulty of the problems in the Kansas City office and I don't know if this was his words, but the essence of it was that they are difficult people to deal with and not terribly reasonable.

The Kansas City office had a history of developing cases far in excess of their actual value, and the real values of the cases were lower. We have known more since then that a lot of cases developed by Kansas City had a PRO that may allege one figure, but that the real value was substantially less. That explains to me why Mr. Jackson is willing to take $2 million, because I think he probably felt the case was substantially lower in value than the document stated.

And companies had a very difficult time in Kansas City negotiating realistic settlements. The whole reason I told the industry in my speeches and so forth. If you think you are not getting reasonable results in your conversations with the field offices, you have got an appeals process. I never promised a good deal, and we have never given companies a good deal, but in the interest of gaining some momentum and some results in the program, the companies ought to have had an opportunity for more than one bite of the apple of getting their cases resolved.

Senator EAGLETON. And boy, did you and Lorenz and Crowell do that in spades.

Mr. HANZLIK. No, sir, we did nothing in spades.

Senator EAGLETON. Lorenz and Crowell zeroed the case.

Mr. HANZLIK. That may be the case today, Senator. That case today may be zero.

Senator EAGLETON. That is how you settled the case. A company which had offered $500,000. Lorenz and Crowell did a super fix.

Mr. HANZLIK. They did not do a super fix. I resent that word. Senator, one thing that bothers me about this hearing is you and other members of this panel have cast aspersions on a group of people who are civil servants, who have served this Government for many years. I don't mind as a political appointee to get beat up. But these are some of the finest individuals I have seen in Government or private service. Time after time, their integrity and their effectiveness and their knowledge and their performance have been attacked.

Without these people, there would not have been $3 billion plus collected by this Government on these cases.

Senator EAGLETON. What do you think a civil servant named Jackson, Wehrle-Einhorn and Lynch——

Mr. HANZLIK. I don't know the other two. Mr. Jackson, I have a high regard for. I have a much higher regard for these people, because I work closely with them.

Senator EAGLETON. What do you think of Mr. Lorenz?

Mr. HANZLIK. I think he is one of the finest civil servants I have ever worked with.

Senator EAGLETON. When Jackson and Wehrle-Einhorn and Lynch testified under oath, you know two of those to be honorable, fine——

Mr. HANZLIK. Yes, sir.

Senator EAGLETON [continuing]. Civil servants and you know nothing bad about Wehrle-Einhorn?

Mr. HANZLIK. I don't know Wehrle-Einhorn.

Senator EAGLETON. You know nothing bad about him?

Mr. HANZLIK. I know nothing bad about him.

Senator EAGLETON. They are a good service agency.

Mr. HANZLIK. Yes, they are. I am proud of the entire agency. One of the things that really disturbs me is that that poor program is constantly under harassment. There are investigations going on today by the Inspector General's Office, the General Accounting Office, the Dingell staff, this committee's staff, the FBI, the Secretary's office, and they go on and on and on, and my people cannot lift a piece of paper without somebody investigating them because there are so many dollars involved, and everybody is so suspicious that these people are doing something nefarious and wrong and they are like dogs that have been kicked time and time again for doing their job.

As I said, I don't mind setting up here. You can beat on me until the curfew hits, because that is what I'm paid for, but to attribute to them base and improper behavior, when they had no knowledge at all about that telephone call to me is, to me, an injustice. I am going to defend these people until my death, because they have served this country well, and if I have made mistakes, if I acted improperly in that phone call, fine, beat up on me. I'm a political appointee, but these are people that I want to protect because they have done nothing wrong.

They maybe had some errors in judgment, but it was not based upon any fix, any political influence or anything I told them to do. I apologize for——

Senator EAGLETON. Is it any wonder, Mr. Hanzlik, is it any wonder that all of these agencies that you ticked off, FBI, the inspector general, the other investigator agencies?

Mr. HANZLIK. I wasn't referring to any other——

Senator EAGLETON. No, no, the agency, you are talking about ERA.

Mr. HANZLIK. Yes, right.

Senator EAGLETON. You used to head it up. Is it any wonder that all these agencies, FBI, especially, are looking into ERA when you look at the track record of the *Anchor* and *Canal* cases? It stinks.

Mr. HANZLIK. Senator, I finally disagree with you. The record of that agency is—I am proud of it.

Senator EAGLETON. Are you proud?

Mr. HANZLIK. There are a lot of people up here who second-guess it, who think they're instant experts about it. It is an incredibly complicated program. The law is still being formed and being litigated. These are people who are making the most of an extremely bad program that the Congress passed back in 1973. They are making the most of a very difficult set of laws involving billions of dollars of many and that kind of a situation creates controversy and creates dispute.

I recognize that. I knew that when I took this job. But these people are taking the brunt of the criticism.

Senator EAGLETON. Do you know Anchor and Canal were handled efficiently?

Mr. HANZLIK. No, sir; I do not.

Senator EAGLETON. You think they were handling all items with good and prudent judgment?

Mr. HANZLIK. No; they did not, and it's not the only case that suffered that fate.

Senator EAGLETON. Do you think that there is any connection between Anchor and Canal and Joe Wright?

Mr. HANZLIK. No, sir; not the way the case was handled. And I think one of the problems, and I don't criticize this inquiry or other inquiries; there are some terrible coincidences here.

Senator EAGLETON. Terrible coincidences?

Mr. HANZLIK. On an appearance side. But the fact that that case took as long as it did, and the problems with it, there is no relationship between that and Mr. Wright's telephone call.

I can tell you that unequivocally, because nobody in the agency knew about that telephone call except me, unless Mr. Wright told the agency, and I think that you will hear from his testimony.

Senator EAGLETON. Is the PRO Anchor issue, when you left office, filed in the Federal Register when you left office?

Mr. HANZLIK. The Canal PRO?

Senator EAGLETON. Anchor?

Mr. HANZLIK. No; sir.

Senator EAGLETON. Was the PRO issued in Canal when you left?

Mr. HANZLIK. Yes.

Senator EAGLETON. When did you leave?

Mr. HANZLIK. I left the end of September, just a month ago.

Senator EAGLETON. What are you doing now?

Mr. HANZLIK. I am in Los Angeles as partner in Heidrick & Struggles, Inc.

Senator EAGLETON. When you went to see Joe about the job, was there any discussion about the job in the private world?

Mr. HANZLIK. No, sir.

Senator EAGLETON. Joe thought there might have been?

Mr. HANZLIK. I read his testimony at your hearing, I think in June or May, and my conclusion was he just did not recollect correctly that session, because I was there strictly to discuss the opening on his staff and confined our discussion to that and that only.

Senator EAGLETON. I yield.

Thank you, Senator Rudman.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Mr. Hanzlik, very briefly, I want to just ask you a few simply frank questions that give me some short answers. We will go through it very quickly.

First, am I correct that during the Ford administration, you, in fact, were an Associate Director at OMB?

Mr. HANZLIK. No, sir; I was an Associate Director of the Domestic Council in the White House staff.

Senator RUDMAN. And you were with OMB in another capacity?

Mr. HANZLIK. No, sir; I have never worked for OMB.

Senator RUDMAN. So you worked in the White House under Domestic Council?

Mr. HANZLIK. Yes, sir; the Domestic Council in the Ford administration worked very closely with OMB. We were physically together in the same building, but I was never on the OMB staff.

Senator RUDMAN. How long did you work with them, a couple of years?

Mr. HANZLIK. I was in the White House for about 5 years.

Senator RUDMAN. Did you kind of, to some extent, become insulated with people to high titles in that 5 years?

Mr. HANZLIK. Yes, sir; you no longer become impressed with anybody. [Laughter.]

Senator RUDMAN. I ask the question very seriously, because obviously, Senator Eagleton, in a very interesting line of questioning about a lot of people and their first time in Washington are called Director, Associate Director. A Director of OMB might make them sit up. I take it they didn't ask you——

Mr. HANZLIK. And this is no disrespect to Mr. Wright, but a call from him didn't mean anything more to me than a call from my campaign colleagues. We all went through a campaign together. We are all sort of in the same family. I think the only people I would really sit up straight for is if a member of the Cabinet called or the President. But that never happens.

Senator RUDMAN. Let me ask you some brief questions. These hearings were called to see whether or not there was some wrongdoing in your agency while you ran it in relation to the *Anchor* case and the *Canal* case that flowed directly or indirectly from Mr. Wright's telephone call to you, the allegation being that that influenced your agency, either directly or indirectly to give these two companies special treatment. That is the essence of what we have been doing for the last 16 hours.

I will ask you this question: At any time, did you speak to anyone in that agency about handling that case in any way other than what you consider to be the normal procedure?

Mr. HANZLIK. No, sir; I did not.

Senator RUDMAN. Did you, in fact, as Administrator, have any authority to get into the legal bases for which these cases will be brought?

Mr. HANZLIK. I had the authority, but I never exercised it.

Senator RUDMAN. Did you, in fact, begin negotiation conferences in terms of setting numbers with any of these cases?

Mr. HANZLIK. I have, on a few occasions, with the very largest integrated oil companies.

Senator RUDMAN. Did you, in this case?

Mr. HANZLIK. No, sir; I did not.

Senator RUDMAN. Did you talk to Mr. Landesman about how he might prioritize this case, either sooner or later?

Mr. HANZLIK. No, sir.

Senator RUDMAN. Did you talk to Mr. Lorenz about how he might prioritize the *Anchor* case?

Mr. HANZLIK. No, sir; I did not.

Senator RUDMAN. Either sooner or later?

Mr. HANZLIK. No, sir.

Senator RUDMAN. Did you talk to anyone about the specifics of how these cases should be handled?

Mr. HANZLIK. No, sir; I did not even remember these cases until this issue came up this past year.

Senator RUDMAN. After the two meetings that you did have with the principals of those companies, at the conclusion of those meetings, did you make any recommendation to either Mr. Landesman or Mr. Lorenz or to anybody else?

Mr. HANZLIK. No, sir; I did not.

Senator RUDMAN. Thank you.

Chairman ROTH. Senator Eagleton says he has one more question.

Senator EAGLETON. Mr. Hanzlik, you testified that you told no one about this phone call, the phone call between you and Joe?

Mr. HANZLIK. Not unitl last fall.

Senator EAGLETON. Not until last fall?

Mr. HANZLIK. Yes.

Senator EAGLETON. When was that?

Mr. HANZLIK. I don't know the precise day.

Senator EAGLETON. To whom did you tell?

Mr. HANZLIK. Again, it was when Mr. Lorenz showed me the file memo.

Senator EAGLETON. Last fall, the latter part of 1984?

Mr. HANZLIK. Yes, sir.

Senator EAGLETON. So you told no one? You were here yesterday. There are only three other people on this Earth that knew about the phone call, Joe Wright, who made it to you; Miss Ferko, who listened in on part of it, but only to what Joe had to say, and then Coty Dupre, because Joe called Coty and talked to Coty, and said that the meeting is set up with Hanzlik.

If word ever got out about this phone call, there are only four suspects as to leaks about the call. You are under oath. You didn't talk about it until you talked to Lorenz in the fall of 1984.

So some kind of malicious gossip gets out about this phone call that stems from Joe to Miss Ferko to Coty Dupre. Because it wasn't you, right?

Mr. HANZLIK. That is right.

Senator EAGLETON. That is all I have.

Chairman. ROTH. Well, thank you, Mr. Hanzlik. You are excused. Again, I appreciate your staying over for the hearing today.

[The Oil Express and copies of other articles submitted by Mr. Hanzlik follow:]

Chevron backs volunteer spill alliance

There's an underground oil leak that's put a city's water supply in danger. No one will take responsibility.

That's a bleak scenario and, in this case, pure imagination.

But it is the sort of dire possibility behind Chevron's push for an alliance of marketers who'll agree to take responsibility for plugging and cleaning leaks when the source isn't immediately apparent.

It's a revolutionary idea for the oil industry—and it's full of legal problems, says jobber and engineer Clark Houghton. But Chevron says legal questions are secondary.

"The alliance will be off the ground and operating by the first quarter of 1982," predicts Bill Pugh, general manager, marketing, Chevron. The main concern should be for the "community and the environment," he says--lawyers can deal with the legal questions later.

Ironically, Chevron was recently hit with heavy fines for failing to move quickly on a leak that damaged a shopping center and its water and sewer systems, Houghton says.

Pugh says marketers are interested, but to date no one has committed to participate.

Some jobbers fear that by airing the problem in public, Chevron may draw unnecessary attention to underground leaks, and force state and local government to write tougher anti-pollution laws and to seek stiffer penalties.

"The issue is in the spotlight already," Houghton responds. "Chevron's idea can't hurt."

Members of the alliance would take responsibility for cleaning up leaks in areas where they have major market shares. When the source of the leak was determined, that company would be asked to continue the cleanup; if it refused, the alliance member would finish the work. If the culprit didn't acknowledge responsibility or pay the bill, "lawyers will have to settle it," Pugh stresses.

Chevron recently got approval for a unique form of insurance to protect alliance members against exceptionally high cleanup costs, he adds.

Wholesale prices to rise by January

Wholesale gasoline prices will rise two to four cents by January, oil company analysts agree. They point to OPEC's price unification at $34/bbl, the Saudi production cut of 500,000 b/d and refiners' shrunken product stocks.

The end of OPEC's two-year pricing dispute will increase refiner's replacement costs by 4cts/gal in 45-60 days, says Amoco economist Ted Eck. But refiners may increase prices even sooner in anticipation, Eck notes.

With refiners' costs increasing and margins thinning the "cost push will be more rapid" than expected, says Phillips' Edd Grigsby. Refiners have been cutting product stocks because high interest rates have boosted carrying costs, speeding the cost pass-through, Eck notes.

The Saudi move will stabilize crude and product prices through 1982, a Chevron economist says.

The crude glut will end by April, Saudi oil minister Yamani predicts. Even with the recent production cut, Saudi Arabia produces more than a third of OPEC's total output of 20 million b/d.

Amoco pricing...

Amoco jobbers in the West and Midwest will lose hauling allowances in early December when Amoco adopts terminal pricing in those markets. Direct dealers will continue to pay a delivered price, Amoco says. Generally, jobbers close to the terminals will benefit, those further away will suffer. Amoco is moving first in the West and Midwest because most of those jobbers are former commissioned agents who "think whatever the company does is okay," one jobber says.

Audit hotline...

Having trouble settling your audit on "reasonable" terms? Call me personally, says DOE's new enforcement chief, Rayburn Hanzlik. He's gotten reports that some auditors and regional managers are being unreasonable, and we'd rather settle than litigate, Hanzlik told jobbers in Philadlephia recently. Hanzlik's number is (202) 633-9733.

No pullout...

Despite rumors, Union is not pulling out of the Midwest, officials said at a recent brand meeting. In its effort to be more jobber-oriented, it continues to sell midwestern stations to jobbers and dealers. Union isn't even looking at charging for credit cards, but if the marketplace forces the move, it will reconsider.

Demand to plummet...

Gasoline demand will drop to 4.1 million b/d by year 2000, compared with 7.5 million b/d in 1978, Amoco VP Sam Van Sickle predicts. Look for more refinery closings as utilization hovers near 66%, causing unusual equipment problems, he says.

Sun's prices shine with reorganization

Sun's prices to jobbers are coming down after years of being uncompetitive, reports brand chairman Arnold Jones. In Indiana, Sun is second only to Texaco, he says. Sun's recent reorganization is responsible, he claims.

In 1975, Sun divided into six operational divisions and told each to sink or swim. "Sunmark," the marketing division, had difficulty keeping its head above water, Jones says. By regrouping under one banner recently, Sun tacitly admitted marketing was unprofitable, Jones adds.

Not so, says Sun spokesman Bob Dietshe, though he wouldn't comment on marketing earnings. 1980 marketing profits were down 38% from 1979, Sun's annual report says. Sun is "putting its money back into the energy business" after its big 1975 push to diversify, Dietshe explains.

Rolling the six downstream operations back into one Sun Refining and Marketing Co. has pared down the executive suite by four top-level managers, he adds.

* * *

Marathon takeover opposition forms

Marathon jobbers in Illinois and some private branders nationwide have organized separately to oppose Mobil's takeover bid.

Executives of big oil companies mostly oppose the merger, based on a spot check at the recent American Petroleum Institute meeting in Chicago.

Illinois Marathon marketers have been organizing to support Marathon's fight before Federal Trade Commission, the courts and the Congress. There are 96 Marathon marketers in Illinois.

"We fear being put out of business," says Bill Schearon, a Woodstock, Ill. jobber and spokesman for the group. Even if Mobil kept us, our credit terms would suffer, he says. Marathon carries its distributors' accounts receivable for up to 180 days for farm business, he explains.

"Private branders are up in arms," says Tim Columbus, an attorney representing a coalition of private branders actively opposing the takeover.

Marathon is the nation's largest supplier to private-brand gasoline marketers. A takeover would likely mean less competition and higher prices, making it harder for private branders to compete with branded suppliers, says Columbus.

More than 50% of Marathon's sales are to non-affiliated private brand marketers, Marathon says in its suit to block the bid. Since Mobil doesn't sell unbranded, the merger could redirect this lower-priced product through high-priced channels. The court papers offer the following 1980 motor gasoline market shares:

	Mobil	Marathon	Combined
Michigan	7.68%	12.06%	19.74%
Wisconsin	8.14%	9.15%	17.29%
Ohio	1.74%	13.92%	15.66%
Illinois	4.27%	12.18%	16.45%
Indiana	2.47%	14.53%	17.00%
Florida	4.52%	7.22%	11.74%

Some areas could become one-terminal towns under a merger, Marathon's suit claims. Mobil and Marathon terminals would supply 57% of the gasoline in Robinson, Ill.

Meanwhile, hearings could come as early as this week on a bill that would require a Cabinet-level review of takeovers of mid-sized oil companies.

THE OIL DAILY MARCH 3, 1982

Hanzlik Expects To Settle Most Cases by Autumn

By Donna Smith
Oil Daily Staff Writer

WASHINGTON — Rayburn Hanzlik, director of the Department of Energy's Economic Regulatory Administration said he expects to settle most of the enforcement cases against large oil companies by next fall.

In a letter to Sen. James McClure, chairman of the Senate Energy Committee, Hanzlik said in October, 21 large oil companies had unresolved cases. Since then the agency signed five global settlements although all of them have not been announced.

Crude oil resellers are proving to be a problem area for DOE enforcement officials, Hanzlik said.

"We found this area of enforcement work lagging far behind the rest of the program, with over 300 cases pending and only one proposed remedial order issued," Hanzlik wrote McClure. "The stalled status of these cases is partly due to other program priorities, but mainly caused by other uncertainties.

"Unlike the regulatory framework for other sectors of the

(Continued on back page)

Hanzlik Shooting For Fall Wrapup

(Continued from page 1)

industry, crude reseller regulations are largely untested in law and less clear in interpretation. This is further complicated by difficult factual issues and potential criminal conduct in a substantial number of these cases."

Hanlik told McClure that by Sept. 30, he expects to have every unresolved meritorious case either settled or ready for litigation. Negotiated settlements will be emphasized because it offers the government cost benefits, he said.

"However, companies that choose not to negotiate settlements will find their cases ready for administrative legal proceedings or federal court by the end of September," Hanzlik said. "The only work remaining after this time will be litigation."

He said enforcement work will continue without interruption regardless whether Congress votes to accept President Reagan's dismantlement plan that will send enforcement to the Justice Department or votes to keep DOE.

HANZLIK: NO COMFORT FOR OIL-PRICE VIOLATORS IN SEPTEMBER CLOSING OF ERA

Even if DOE is not dismantled this year, the agency's Economic Regulatory Administration will cease to exist on Sept. 30, according to ERA Administrator Rayburn Hanzlik.

However, lest industry read the administration's plans as an indication that pending enforcement cases unresolved by that date will be dropped, Hanzlik said that "procrastination now will ensure litigation later" in a letter to Senate Energy Committee Chairman James McClure, R-Idaho.

Hanzlik's determination to press vigorously for settlements in the approximately 1,300 outstanding petroleum price-violation cases has been questioned repeatedly by members of Congress, particularly House Energy and Commerce Committee Chairman John Dingell, D-Mich., one of the architects of oil-price controls (Issue of 15 Jan, 7).

"By Sept. 30, 1982, we will have every unresolved meritorious case either settled or ready for litigation. Because of cost benefits to the government, as well as the industry, our emphasis is on negotiated settlements. However, companies that choose not to negotiate settlements will find their cases ready for administrative legal

HANZLIK: NO COMFORT FOR PRICE VIOLATORS

. . . . begins on page 1

proceedings or federal court by the end of September," Hanzlik wrote McClure on Feb. 10.

Noting that adequate funds are included in the FY-83 budget to handle enforcement litigation (either at DOE or, if DOE is dismantled, at the Justice Dept.), Hanzlik told McClure that the enforcement program "will proceed without interruption."

Companies should not hesitate to settle cases. "These plans for FY-83 are helpful in persuading companies not moving to resolve cases to overcome this reluctance. Contrary to some expectations in the industry, procrastination in resolving cases in FY-82 will not result in the cases being dropped next September," Hanzlik said.

Of the remaining cases, Hanzlik said that the great bulk, which involve small companies in the product-reseller and retail business with relatively small alleged price violations, should be largely resolved through negotiation by Sept. 30. It is the larger refiner cases, where 16 of 21 cases are still pending, that will be receiving a substantial part of ERA's resources in this fiscal year. According to an ERA spokesman, two more global settlements have been reached by ERA and should be announced in a matter of days. It is hoped that global settlements can be reached with the remaining 16 major refiners by fall, the spokesman said.

Crude resellers a problem. According to Hanzlik, ERA is behind schedule only in those cases involving crude-oil resellers. "We found this area of the enforcement work lagging far behind the rest of the program, with over 300 cases pending and only one proposed remedial order issued," Hanzlik said. The ERA administrator attributed the backlog to the peculiarities of the regulations governing resellers. "Unlike the regulatory framework for other sectors of the industry, crude-reseller regulations are largely untested in law and less clear in interpretation. This is further complicated by difficult factual issues and potential criminal conduct in a substantial number of these cases," Hanzlik told McClure.

Value of enforcement claims exaggerated. Hanzlik also told McClure that the previous administration's practice of announcing estimates of cost violations led the public and Congress to believe that the "cost violations represent the amount of money improperly retained by the companies. Cost violations, however, are not equal to price overcharges ahd are usually many times higher," Hanzlik said. Thus, the often-used estimates that the price violations could range from $10 billion to $20 billion are erroneous. Only about "13 cents in settlement dollars for each dollar of cost violation" are recoverable by the government, Hanzlik said. "One can conclude that alleged cost violations run about eight times the recoverable overcharge violation amount," he said.

The Houston Post, Wed., June 9, 1982

Official advises negotiating price disputes

By SAM FLETCHER
Post Energy Writer

The head of the Economic Regulatory Administration Tuesday warned companies involved in oil pricing disputes with the government to negotiate settlements "unless you want to continue to subsidize lawyers through the litigation of these cases over the next few years."

HANZLIK

"We will place in litigation any case not resolved this year by negotiation," Rayburn Hanzlik, ERA administrator, told the annual meeting of the Texas Independent Producers and Royalty Owners. "The prospect of extended litigation is not in the best interests of the industry or the government."

The administration plans to close down the agency this fall, claiming it is unnecessary since the deregulation of oil and petroleum products.

IN A PRESS CONFERENCE FOLLOWING his speech Tuesday, Hanzlik said his office already has cleared about two-thirds of more than 1,400 alleged violations which were unresolved when President Reagan deregulated oil and petroleum products in January 1981.

Only about 500 hundred "hard-core" cases remain, he said. While he hopes to get many of those resolved through negotiations, Hanzlik said he expects to see 200 to 300 cases transferred to the Justice Department in October.

Hanzlik denied charges by critics that his agency is dragging its feet in prosecuting alleged pricing violations.

"We're trying to do as fair and as diligent job as possible," he said.

He said critics include those within his agency who "don't like to lose their jobs and believe in what they're doing" and congressmen who fear losing jurisdiction over the "old" Department of Energy.

ALLEGED PRICING VIOLATIONS BY small oil companies generally have proved to be honest mistakes in their interpretations of complex and frequently vague federal regulations, he said. Even the biggest dollar-value case, an $800 million suit involving Exxon, is "an honest difference of opinion," Hanzlik said.

The problem, he said, is that — unlike tax laws — the oil pricing regulations have not been tested in the courts so guidelines have not been established. "It's still a virgin area," he said.

The sector of the industry in which fraud has most frequently been found is in the crude oil resellers, he said. Hanzlik said his department is investigating 50 companies in that category alone.

He said of the large overpayments originally claimed by former Energy Department officials: "That was a public relations gimmick. There were pricing violations, but not of the scale people were led to believe."

IN HIS SPEECH TO TIPRO, Hanzlik claimed some in the industry are opposing "for the wrong reasons" the proposed dismantling of the Department of Energy. Some industry officials have said they prefer having all energy-related agencies under one central department.

But Hanzlik warned that maintaining DOE as a cabinet position leaves in place "all the machinery to crank up again in another crisis."

"The Commerce Department is the natural and logical home for energy," Hanzlik said.

In other action Tuesday outgoing TIPRO President L. Frank Pitts urged members to work for several energy-related measures. "Natural gas deregulation without a wellhead excise tax heads the list," he said. "Any proposed increase in the state severance tax must be defeated."

Harrold E. Wright, president of Gen Wright Inc., succeeds Pitts as president.

something for his firm? We will get into what that was in a moment.

Ms. **Ferko**. Something?

Senator **Levin**. Yes.

Ms. **Ferko**. There was no question in my mind what he was asking. He said what he wanted.

Senator **Levin**. Would you say that he was asking for something for his firm? He wanted their hearing resolved, is that fair?

Ms. **Ferko**. He was asking for a meeting to take place.

Senator **Levin**. He was asking for something for his firm, is that right?

Ms. **Ferko**. Asking for a meeting to take place, yes, sir.

Senator **Levin**. Do you think it is proper to ask for something for your own firm, even though it is only a meeting?

Ms. **Ferko**. I saw nothing wrong with what he was doing. He was not asking for a decision to be turned around. He was asking for a meeting to take place.

Senator **Levin**. You saw nothing wrong in terms of the appearance of impropriety in Joe Wright asking for a meeting for a firm in which he owns stock?

Ms. **Ferko**. No. I am sorry, I did not.

Senator **Levin**. Thank you.

Senator **Rudman**. Would the chairman yield for one moment?

Chairman **Roth**. Yes.

Senator **Rudman**. I just want to comment. I think my friend form Michigan, as usual, has put his thumb right on this matter. I agree with him. I don't think Mr. Wright should have made the call. I have told him that. I think there is an appearance, to some extent, of impropriety, asking for anything when you are a high Government official, a Member of the U.S. Senate calling a member of the Treasury Department about a firm that you own stock in. I think that would not be a good idea, but I must say that, and I told Mr. Wright this to his face, that I think that was not a smart thing to do.

But that is a long way from a fix, and what we are going to find out about here, when we get these other witnesses up here, I think we are going to find out pretty well whether there was or wasn't. I just want to make the observation, and I agree with the Senator from Michigan on the point he just made with the opinions.

Senator **Levin**. If I could comment, we have got case after case——

Chairman **Roth**. The Chair would like to make a comment, because my concern is that a great deal of time of the committee today has been consumed by the opinions and construction of events of members of the panel. Now, as I said earlier, when these hearings are completed, they are entitled to their opinions as to what they think happened.

What bothers me is we are spending so much time on opinions without getting to the facts that we are delaying unnecessarily, in my judgment, the hearings. I would ask, and I say that to both sides with great respect.

I would ask both sides, let's proceed with the witnesses and get the facts. Once the facts are laid out, then, of course, the members of the panel are free to interpret them as they see appropriate. It has bothered me very greatly that in some of the questioning, and I don't want to impose limitations on anyone, but the questioning really has constituted a long discussion of events as seen by the particular Senators. I say that has been done some on both sides. So I would ask, in due deference, that all members try to limit their question period to asking questions of the witness.

Senator **Levin**. Mr. Chairman, may I respond to my friend from New Hampshire?

Chairman **Roth**. Yes, Senator.

Senator **Levin**. The point I was making and that I think he had made is that if there is an appearance of impropriety—and I happen to agree with him that there is when you pick up the phone and ask for something for a firm in which you own stock, even using their own testimony, that's what happened—that there is a mechanism for responding to that kind of action by a Government employee, even if that's all it was, and we haven't obviously resolved that that's all it was or not. But as a minimum, that's what it was, and there is an Executive order about the appearance of impropriety, and there is a way of responding to it. And nothing has happened about this appearance of impropriety, nothing has happened. There has been on process followed, and this committee knows what that process is.

That is, at a minimum what troubles me. We haven't even gotten into the question of resolving the more serious questions here, but at a minimum something happened here which shouldn't have happened. Nothing has happened as a result in terms of a process for correcting it. I am deeply troubled by it. I am glad my friend from New Hampshire said what he said, because I tend to agree with him, that that is a minimum of what has happened here with no corrective action.

I thank the chairman.

Chairman **Roth**. Senator Eagleton.

Senator **Eagleton**. Thank you, Mr. Chairman. The real nothing that has happened is nothing has happened on Anchor and Canal. That's the big nothing that has happened.

Now, Ms. Ferko, when you got in on that partial conversation and that's the first time you have ever recorded or sat in on a partial conversation?

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. And you hear Joe say, "was I aware of that," referring to bureaucratic SNAFU's and whatnot, and you said, was Ray aware of what was going on, and Ray, you mentioned Ray several times. That is the word that Joe used, Ray.

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. Joe had never laid eyes on this guy before, never heard of this guy before, never knew this guy before, never dreamed of who this guy was before. He got pretty chummy with him pretty soon.

His name is Ray, Rayburn Hanzlik. So who doesn't know Rayburn Hanzlik. I never met him, never knew him, didn't know he exists. I have a conversation with him, and then at the tag end, I call in my administrative assistant, and I am Ray this, Ray that, Ray, Ray. Pretty chummy for somebody you never knew.

When Mr. Hanzlik came to your office seeking a job, did you call him Ray?

Ms. **Ferko**. I didn't speak to him at all, sir, when he came in. But I refer to him as Ray now, and I never met him.

Senator **Eagleton**. What about your secretaries, did they say, "here comes Ray"?

Ms. **Ferko**. No, sir.

Senator **Eagleton**. Reconstructing, you did that reconstructing with Joe?

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. After those anonymous calls in the end of 1984. When the Wall Street Journal came out with its article, did you do some reconstructing with Joe then? Did you have a second visitation of reconstruction?

Ms. **Ferko**. Yes, sir. We did a lot of talking about it.

Senator **Eagleton**. A lot of talking.

Ms. **Ferko**. We were trying, because that was the very first time that either Joe or myself actually saw the full picture of what had happened. We had no knowledge of what had happened.

Senator **Eagleton**. Do you know the Wall Street Journal article gave you a pretty full picture?

Ms. **Ferko**. That seemed to bring out all the business about Kansas City that we knew nothing about. We knew nothing about the case at all.

Senator **Eagleton**. So you did some more reconstructing then. You reconstructed after the anonymous call. You reconstructed after the Wall Street Journal article?

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. Then after all that reconstruction, going over it with Joe, here is how it took place, Joe—Joe, says, well, no, it took place this way. You reconstructed, on June 4, 1985, when you were interviewed with Senator Roth's secretary, after all that reconstructing.

It seems to me you would have your ducks pretty well in a row by then. You had the benefit of the Wall Street Journal article, you had the benefit of the earlier hearing on Joe Wright that goes in the papers. Joe came back. Joe told you about that hearing, didn't he, when he came back?

Ms. **Ferko**. Yes, sir. I was here.

Senator **Eagleton**. He didn't like that hearing, did he?

Ms. **Ferko**. I can't say that we were too pleased, sir.

Senator **Eagleton**. But Joe didn't like it. He told you all about it.

So you had lots of time to reconstruct. You reconstructed at the end of 1984, you reconstructed after the Wall Street Journal article. You reconstructed after the hearing, you had it all in a row, and you sat down and talked to Bobby Kammerman from Senator Roth's staff. Senator Levin has gone into that, and Bobby Kammerman has told us the truth about the call, and about the cocktail party a week or so before.

You see, Ms. Ferko, you are a very bright person with extraordinarily fine experience, 31 years in Government. Senator Levin mentioned it. Senator Gore mentioned it, fine experience.

See, your interview with Bobby Kammerman helps to do Joe in, because Joe Wright knew Ray. He knew him before the telephone call when he was calling him "Ray, Ray, Ray." He had already talked to Ray at the cocktail party. He talked to Ray at that cocktail party because his dad was driving him bonkers, "Anchor, Anchor and Anchor, get something done on Anchor." It ties in, because on September 14, that is when the PRO was handed to Coty Dupre in Kansas City. That is when papa really went bonkers. He had been hit with the PRO.

Ray then meets him, Ray and Joe meet at the cocktail party. We got to talk first. Then on September 23, four telephone calls; we had three, but there are four, by the time you trace them all through the log. Finally, 2 o'clock, 2 something p.m., when Joe gets together with Coty.

Now did you know, because I don't think probably you did, did you know that the PRO had been handed to Anchor on September 14, that a charge had been filed against Anchor on September 14?

Ms. **Ferko**. No, sir, I knew nothing about the case.

Senator **Eagleton**. Did you know that a meeting had already been scheduled to take place in Kansas City on September 24 where Anchor's people, Coty Dupre and Dunagan, were to meet with Jackson? Did you know anything about that?

Ms. **Ferko**. No, sir.

Senator **Eagleton**. Coty Dupre certainly knew about it, because he was going there, and he had already been there. He had been there on the 14th and was going again. Dunagan knew about it. Did you ever see any mail come in from Coty Dupre?

Ms. **Ferko**. No, I can't remember any mail coming in from Coty Dupre.

Senator **Eagleton**. In all your recollecting this, in all your long years with Joe, how well does Joe know Coty?

Ms. **Ferko**. I really can't say. I don't know.

Senator **Eagleton**. Did he ever exchange Christmas cards?

Ms. **Ferko**. I don't know. Joe gets Christmas cards at home.

Senator **Eagleton**. Has he ever gone hunting or fishing before?

Ms. **Ferko**. Joe has hunted and fished, but I don't know who it was with.

Senator **Eagleton**. Do you know if he went with Coty? Ever hear him mention good old Coty?

Ms. **Ferko**. No, never mentions Coty.

Senator **Eagleton**. You look at that log, and you see that flurry of phone calls on that famous day on September 23. What leaps out at you, Ms. Ferko? You have been around Joe Wright for 14 years. Here is on this sheet of paper, four phone calls September 23, Coty Dupre.

That is a name out of the blue to you?

Ms. **Ferko**. It was when I first started looking at the call sheets, yes.

Senator **Eagleton**. That is more calls—I can't recall a day when I have had four phone calls to go back to anybody connected with the family company. I have a family company, own part of a family company. Four phone calls with a family company. Four phone calls on September 23, the day he is calling Ray Hanzlik, and the day before Coty is to meet in Kansas City with Jackson, four. You don't draw any kind of mercenary conclusion from that entry log?

Ms. **Ferko**. Are you asking me if I would?

Senator **Eagleton**. You, you know who Coty Dupre is now?

Ms. **Ferko**. I certainly do.

Senator **Eagleton**. Senator Gore pointed out, he is vice president of Anchor and he is president of Canal.

Ms. **Ferko**. But back in September 1982, no.

Senator **Eagleton**. What was he in September 1982 or 1983?

Ms. **Ferko**. He was another caller on Joe's call list. Joe usually has two pages of calls per day.

Senator **Eagleton**. Did you have any idea that Anchor and Canal had any problems with the Department of Energy?

Ms. **Ferko**. Before I witnessed the phone call, sir?

Senator **Eagleton**. Right, right.

Ms. **Ferko**. Is that what you are asking me?

Senator **Eagleton**. Yes, before the phone call.

Ms. **Ferko**. No, sir.

Senator **Eagleton**. It became very clear to you with the phone call that there was a problem or problems?

Ms. **Ferko**. Yes, sir.

Senator **Eagleton**. That's all I have.

Chairman **Roth**. Ms. Ferko, I have only one question. It was my understanding that with respect to Coty Dupre on that day, although there were four calls listed, only one was, in fact, consumated. Is that correct?

Ms. **Ferko**. Yes, sir.

Chairman **Roth**. So that while it is correct there were four calls made, in fact, there was only one telephone call between Mr. Dupre and Mr. Wright?

Ms. **Ferko**. Yes, because of the sequence here, the first time here is 10:10, it is in the in-block showing that the call came in to Mr. Wright, and Mr. Wright left word at 10:50. I think that says 10:50 or 10:30.

And then the 12:15, if there wouldn't be the 2:25. That is the usual way the girls put the calls down. You keep putting the names that the people call back until the call is completed, so that Joe can see if he comes out and looks at his list that Coty called at 10:10 and he called back at 12:15. So he knows he tried to get him twice.

Chairman **Roth**. Thank you, Ms. Ferko. That is all. You're excused.

Ms. **Ferko**. Thank you.

[A memorandum dated December 21, 1984, from Ms. Ferko to Mike Horowitz and a telephone log follow:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

December 21, 1984

MEMORANDUM FOR: MIKE HOROWITZ

FROM: MARYANN FERKO Maryann Ferko

I received a phone call on Friday, December 14, 1984 from an anonymous caller who identified himself as working for the Department of Energy and asked me to pass on some information to Joe Wright. He said that a Gordon Harvey at the Department of Energy had a "witchhunt" going on against Mr. Wright. That Mr. Harvey had asked his staff to look into a situation concerning an oil company pricing case against Anchor Gasoline Co. and Canal Refining Co.(companies which Mr. Wright's father is affiliated with) He said Mr. Harvey is a mean and devious individual and is out to get Mr. Wright, Bill O'Connor and Martha Hesse for what they did to him and if he was going to go down he would take them with him. He said Mr. Harvey was using his staff to assist him in his "witchhunt". The caller said that he didn't think what Mr. Harvey was doing was above-board and wanted Mr. Wright to be aware of this situation.

On Monday, December 17, 1984 I passed this information on to Mr. Wright. Mr. Wright said the only thing he could think of that would concern his fathers affiliations and the oil co. pricing cases was the call he made to Ray Hanzlik several years ago. I was present in his office when he made the call and he told Ray Hanzlik that under no circumstances was he trying to get favorable consideration for the firms but that he was merely passing on to Ray the fact that there seemed to be procedural problems concerning the cases. To the best of my knowledge and memory of the incident, the call took place during the first year we were here at OMB. At that time Mr. Wright also told me that he had talked to his father and told him that he could not get involved with this matter.

I also received a call from the anonymous caller on Wednesday, December 19, 1984 when he asked me if I had given his message to Mr. Wright. I told him that I had passed on the information to Joe and his call was appreciated. He said he wanted me to let Joe know that Mr. Harvey's "little private investigation" was coming to a close and Mr. Harvey felt that he had a good case.

I passed on this additional information to Mr. Wright on that date. The caller keeps stressing that he is only calling so that Mr. Wright will be made aware that Mr. Harvey is carrying on this investigation because he is a very upset man using devious methods to get back at those he feels are responsible for his downfall.

TELEPHONE CALL RECORD

DATE: 9-23-8

CALLER	NUMBER	MESSAGE	IN	OUT
Wayne Adams	615-588-8772			
Jim Richards	I G Energy 252-4383			Lw 9.1 8:00
Martin Artiano	797-3690	Cl. on behalf of Stan Anderson		
Jerry Carmen	566-1212			Lw 9-22 10:0
Lisa Garrett	682-6060	Home 966-1262	3:10	Lw 9-2 2:25 Lw 9-2
Arlene Triplett	377-4951		3:15	Lw 9-2 12:1
Bill Bagley	415-434-4896	Re. FCC Building		
Tony Turner	213-697-8570			
[illegible] Mulberry	I G Interior 343-5745			
Terry Hunt	833-5397	A. Press		
Joan McEntee ✓	224-4751	called again at 2:00	9:10	Lw 9:
Tuppie Dordy	377-1134	will call after 12:00	12:10	Lw 9:
Molly Baldrige ✓	447-7597		10:30	10:00 Lw 10:4
Coty Dupre ✓	318-684-5423	will call later to afternoon	10:10 12:15 2:35	10:55 Lw
Jen Lewis ✓	287-0340		10:35	10:5
Ray Hamlik ✓	633-9733	Head of ERA		10:5
[illegible] Carlucci ✓			11:30	
[illegible] ✓	6190	Left at 4:30	12:25	
[illegible]		Cong [illegible] Tuttle [illegible]		

Chairman **Roth**. Next we will call forward Coty Dupre.

Do you swear the testimony you give this committee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. **Dupre**. I do.

Chairman **Roth**. Thank you, Mr. Dupre. Please be seated.

TESTIMONY OF COTY R. DUPRE, PRESIDENT, CANAL REFINING CO., AND VICE PRESIDENT, ANCHOR GASOLINE CORP., ACCOMPANIED BY DAVID M. DORSEN, SACHS, GREENEBAUM & TAYLER, WASHINGTON, DC

Chairman **Roth**. Mr. Dupre, would you introduce the individual accompanying you and in what capacity?

Mr. **Dupre**. This is Mr. David Dorsen. He's an attorney here from Washington.

Chairman **Roth**. Would you bring the microphone a little closer so that we can hear your answers?

Mr. **Dupre**. Mr. David Dorsen. He's an attorney from Washington representing me.

Chairman **Roth**. Mr. Dupre, would you tell us your position with Canal Refining Co. and Anchor Gasoline Corp.?

Mr. **Dupre**. I'm president of Canal Refining Co., and I am vice president of Anchor Gasoline Corp.

Chairman **Roth**. How long have you held these positions?

Mr. **Dupre**. I have been president of Canal for 7 years, and a vice president of Anchor for approximately 9 or 10 years.

Chairman **Roth**. What is the relationship between Anchor Gasoline Corp. and Canal Refining Co.?

Mr. **Dupre**. Canal is wholly owned subsidiary of Anchor Gasoline Corp.

Chairman **Roth**. What is you relationship to Joseph Wright, Sr.?

Mr. **Dupre**. I work for Mr. Joseph Wright, Sr., He is president of Anchor Gasoline Corp.

Chairman **Roth**. Do you know Joseph Wright, Jr.?

Mr. **Dupre**. Yes, sir, I know Joseph Wright, Jr.

Chairman **Roth**. What is his relationship to Anchor and Canal?

Mr. **Dupre**. Joseph Wright, Jr., is the son of Joseph Wright, Sr., and he is a stockholder of Anchor Gasoline Corp., a very minor stockholder.

Chairman **Roth**. Has he ever been an officer or director of Anchor or Canal?

Mr. **Dupre**. No, sir, he has never been.

Chairman **Roth**. In the course of conducting business for Canal Refining Co. or Anchor, did you send letters or place phone calls to Joseph Wright, Jr., to keep him informed about the company's business?

Mr. **Dupre**. No, sir, I did not keep him informed of any of the company business, and I only made only one phone call to Mr. Joseph Wright, Jr., and that was on September 23.

Chairman **Roth**. So if I understand you correctly, the only contact with respect to the business of Canal or Anchor was this one phone call? There have been no other communications, by telephone, letters or otherwise?

Mr. **Dupre**. That is my recollection, yes, sir.

Chairman ROTH. Mr. Dupre, I want to ask you some questions about Anchor's alleged price control violations. I take it you are aware that there are three outstanding notices of probable violations, called NOPV's, that were merged into one document called a proposed remedial order on or about September 14, 1982? You are familiar with that?

Mr. DUPRE. Yes, sir.

Chairman ROTH. I want to focus on that case for a moment. With respect to the claims contained in the PRO dated September 14, 1982, what meetings did you attend in the Kansas City office?

Mr. DUPRE. I did not attend a meeting of September 14, 1982. R.N. Dunagan attended that meeting alone.

Chairman ROTH. Did you attend any meetings in the Kansas City office?

Mr. DUPRE. Yes, I did; I attended a meeting on September 24, 1982, and I attended a meeting in October, October 19, 1982, and then I attended another meeting in Kansas City. That's the only meetings I attended sir. That's the only meetings I attended.

Chairman ROTH. Did Joseph Wright, Jr.'s, name come up in any context at the meetings you attended?

Mr. DUPRE. No, sir. No, sir.

Chairman ROTH. Let's focus on September 23, 1982. Did you call Joseph Wright, Jr.?

Mr. DUPRE. I placed a call that morning at 9:15, Louisiana time, and I left word. He was not in. I was not able to reach him then.

Chairman ROTH. Do you remember why you called?

Mr. DUPRE. Yes, sir, I was calling him because we were having quite a problem with our audits and working through the Kansas City office, and I was calling to ask him that if we did need assistance in coming to Washington to see Mr. Rayburn Hanzlik, could he help get that appointment for me. That's the reason I called him.

Chairman ROTH. Did you ask him to do anything beyond setting up such a meeting?

Mr. DUPRE. No, sir, that's all I asked for.

Chairman ROTH. Did you in any way imply that you would like something more to be done?

Mr. DUPRE. No, sir.

Chairman ROTH. Did you actually talk to Joe Wright, Jr., on September 23?

Mr. DUPRE. Yes, sir, I did. I did not talk to him on the first call at 9:15. To the best of my knowledge, I spoke to him later that day, but I did talk to him.

Chairman ROTH. Do you know whether you called Mr. Wright or whether he called you?

Mr. DUPRE. I cannot recall if I placed the call or if he placed it.

Chairman ROTH. Mr. Dupre, would you tell us in your own words about your phone conversation of September 23 with Joseph Wright, Jr.?

Mr. DUPRE. Yes, sir, in that conversation, I told him of the problems we were having in Kansas City, and that we possibly would need to see Raymond Hanzlik, because this was not progressing the way we thought it should be progressing in Kansas City, and I asked him if I did need help, would he help me get an appointment with Rayburn Hanzlik, and that's the extent of that conversation.

Chairman ROTH. What do you mean when you say that the meetings in Kansas City were not proceeding along the lines that you thought they should?

Mr. DUPRE. Well——

Chairman ROTH. Proceed.

Mr. DUPRE. Well, we had met with them a couple times, several times, rather, and we were not getting the response that we felt that we should have been getting from Kansas City, and that is, they were not listening to our side of the negotiation at all. It was just cut and dried with Kansas City.

And for that reason, we felt that we needed to see Mr. Hanzlik.

Chairman ROTH. Did you end the conversation with the impression that Mr. Wright was going to contact Ray Hanzlik?

Mr. DUPRE. That was my impression, sir.

Chairman ROTH. What, if anything, did Mr. Wright say as to what he would ask or do or tell Mr. Hanzlik?

Mr. DUPRE. He would—it was my understanding that he would just relay this information that we were trying to get an appointment with him.

Chairman ROTH. Did you discuss anything else on the telephone?

Mr. DUPRE. No, sir.

Chairman ROTH. Did Mr. Wright or anyone else later inform you that he had actually called Ray Hanzlik?

Mr. DUPRE. I don't recall if he told me he had or not. I have no recollection of that.

Chairman ROTH. You made this phone call on September 23, 1982. At that time, did you already have scheduled a meeting in the Kansas City office for the following day, September 24, 1982?

Mr. DUPRE. When I placed that phone call at 9:15 to Joe Wright, Jr., we did not have an appointment as yet.

Chairman ROTH. What time was that meeting scheduled?

Mr. DUPRE. The appointment with Kansas City was made later on, on September 23, later on during the day, and that was made by R.N. Dunagan.

Chairman ROTH. Was that mentioned during the phone call with Mr. Wright?

Mr. DUPRE. Sir?

Chairman ROTH. Had the September 24 meeting been scheduled by the time you had the phone call with Mr. Wright?

Mr. DUPRE. To the best of my knowledge, no, sir, it had not been completed. But I knew we were trying to get a meeting. I had spoken to R.N., and he was trying to get a meeting set up with the Kanasas City people.

Chairman ROTH. Did you attend the September 24 meeting in the Kansas City office?

Mr. DUPRE. Yes, sir, I did.

Chairman ROTH. Who else was there?

Mr. DUPRE. Mr. Robert Wehrle-Einhorn and Mr. David Jackson, R.N. Dunagan, and myself.

Chairman ROTH. Was your phone call with Mr. Wright discussed during the September 24 meeting?

Mr. DUPRE. No, sir.

Chairman ROTH. Was Mr. Wright's phone call to Mr. Hanzlik discussed at that meeting?

Mr. DUPRE. No, sir.

Chairman ROTH. Was Joe Wright, Jr.'s name mentioned at that meeting or any meeting that you had in Kansas City with officials from the Department of Energy?

Mr. DUPRE. No, sir. His name never was mentioned at any of the meetings.

Chairman ROTH. Did there come a time when you met Ray Hanzlik?

Mr. DUPRE. Would you repeat the question, please?

Chairman ROTH. Did there come a time when you met Ray Hanzlik?

Mr. DUPRE. Yes, sir. I met Ray Hanzlik in—either October 7 or 8, 1982. I met him here in Washington. I was attending an American Petroleum Refiners Association meeting in Washington, and Ray Hanzlik was the guest speaker. He was the luncheon speaker.

Chairman ROTH. What did you discuss with Mr. Hanzlik?

Mr. DUPRE. During his talk, Mr. Hanzlik mentioned the audits that were in progress, and some of them had been delayed and were long overdue in settlements, and especially with small refiners, if anyone had any problem—particular problems, he would be glad to discuss the problems with them after the meeting.

So, after the meeting, I was one of the first, but there were several others that went up to meet Mr. Hanzlik, and I told him of our problems in Kansas City, and I told him that we were scheduling a meeting in the next few days, and I asked him if we had further problems in Kansas City, could I call him, and he said yes, to call him personally.

Chairman ROTH. During your meeting with Hanzlik, did you mention Joe Wright, Jr., or his phone call to Hanzlik?

Mr. DUPRE. No, sir.

Chairman ROTH. When you met with Mr. Hanzlik on October 7 or 8 and when you wrote to him on October 11, did you request a meeting with him or other Washington officials?

Mr. DUPRE. Yes, sir. We, later on, we met in Kansas City on October 19. I met with Mr. Robert Wehrle-Einhorn, R.N. Dunagan, and myself, and I believe Mr. Jackson was also in. That was on October 19.

Chairman ROTH. But Mr. Hanzlik was not at that meeting?

Mr. DUPRE. No, sir. This was in Kansas City.

Chairman ROTH. Was there any mention made of Joe Wright, Jr., at that meeting?

Mr. DUPRE. No, sir. No, sir.

Chairman ROTH. We know there was a meeting in Washington on October 22, 1982. Did you attend that meeting?

Mr. DUPRE. Yes, sir, I attended the meeting.

Chairman ROTH. Who are present?

Mr. DUPRE. R.N. Dunagan was there; Ray Hanzlik; Milton Lorenz and Avrom—I believe Avrom Landesman was there also.

Chairman ROTH. What was the purpose of the Washington meeting?

Mr. DUPRE. We discussed with the group the problems that we had encountered in Kansas City and the slow progress in handling

Canal and Anchor's negotiations, and we were coming to them to see if they could take a look at our audits.

Chairman ROTH. You mentioned that Mr. Hanzlik was a luncheon speaker at a conference of small refiners.

What did he say at that meeting or that luncheon about the handling of small refiners' problems?

Mr. DUPRE. At that meeting, he was telling the group, he told us how many outstanding audits there were and how many he was—how many of these audits he was planning to complete within the next 12 months, and he told the group that he knew he was speaking to a small-refinery group; that if any of the group had any particular problems, that he would be glad to discuss it with them after the meeting.

Chairman ROTH. Going back to your Washington meeting, why was it in the company's interest to settle promptly?

Mr. DUPRE. We had several reasons why we wanted to settle: No. 1, it was time counsuming; No. 2, it was very—it has been very expensive from this long, dragging period that we are going through; and No. 3, is that this potential liability continues to appear on our financial statement, and this is something that we would like to have removed just as quick as this can be settled.

Chairman ROTH. Did you have any subsequent meetings in Washington on this matter?

Mr. DUPRE. We met again on November 10. We met with Mr. Lorenz, Mr. Avrom Landesman, R.N. Dunagan, myself, and Peter Johnson.

Chairman ROTH. What date was that on?

Mr. DUPRE. That was on November 10. Peter Johnson was a consultant that we had hired.

Chairman ROTH. What was discussed at that meeting?

Mr. DUPRE. At that meeting, we discussed the audit and also what we thought was wrong with the audit; that the problems that were in the audit, and we went in detail with the group.

Chairman ROTH. Did you have any subsequent meetings in Washington on this matter?

Mr. DUPRE. We had another meeting on February 9, 1983.

Chairman ROTH. Who was that with?

Mr. DUPRE. That was with Lorenz and Landesman and R.N. Dunagan and myself and Hal Weston, another consultant that we had hired.

Chairman ROTH. That was on February 9, 1983. When was your next meeting?

Mr. DUPRE. And the next one was November 8, 1983, and that was with Mr. Hanzlik, Mr. Lorenz, and myself and R.N. Dunagan.

Chairman ROTH. What was the purpose of these meetings?

Mr. DUPRE. At that time, we were—we had been negotiating with Mr. Lorenz and Mr. Landesman, and we had made them an offer which we thought was a very substantial offer, and also, we discussed at that meeting the Department of Interior suit that Canal had against the Department of Interior. And at that meeting also, I also offered to Mr. Hanzlik to offset our suit against their claim.

Chairman ROTH. Was the claim against the Department of Interior substantial? What does that consist of?

Mr. Dupre. That consisted of crude oil that we had purchased through the USGS, the Department of Interior. That was a program for smaller refiners to purchase crude oil, and they had—our claim against them consisted of overcharges, and it was either $16 or $17 million.

Chairman Roth. I'm sorry; I didn't hear that.

Mr. Dupre. It was for either $16 or $17 million against the Department of the Interior.

Chairman Roth. Your claim against the Department of Interior?

Mr. Dupre. Yes, sir.

Chairman Roth. What was the position of the Department of Energy as to this proposal?

Mr. Dupre. Well, that proposal, Mr. Hanzlik told me that that was two different Departments, and as far as he knew, that they would have to be handled separately.

Chairman Roth. Did you have any subsequent meetings with Washington officials or Kansas City——

Mr. Dupre. No, sir.

Chairman Roth [continuing]. On the claims made in the September 14 Anchor PRO?

Mr. Dupre. No, sir. According to my recollection, that November 8, 1983, meeting was the last that I attended.

Chairman Roth. Mr. Dupre, after the November 8, 1983, meeting, which I understand was your last with the Department of Energy officials, what did you think was the status of the claim against Anchor?

Mr. Dupre. Well, I thought it was—all the time I thought it was greatly overstated.

Chairman Roth. I'm sorry. I couldn't hear you.

Mr. Dupre. I thought it was greatly overstated, their claim against Anchor.

Chairman Roth. Again, at any of these meetings that you attended, either in Kansas City or in Washington, was Joe Wright, Jr., mentioned directly or indirectly?

Mr. Dupre. No, sir. His name never was mentioned.

Chairman Roth. I think we will recess. There is a vote going on. We will continue the questioning on our return.

[Short recess.]

Chairman Roth. The committee will be in order.

I just have one or two more questions at this stage, Mr. Dupre.

You testified that you reached Joe Wright by telephone in the afternoon of September 23, 1982, and discussed your desire to have a meeting with Ray Hanzlik. According to the record, Mr. Wright had already spoken to Ray Hanzlik at about 10:15 that morning. Did Mr. Wright tell you he had already spoken to Ray Hanzlik?

Mr. Dupre. I have no recollection of his telling me about that, no, sir.

Chairman Roth. You have no recollection whatsoever? How do you explain this discrepancy?

Mr. Dupre. What discrepancy?

Chairman Roth. Well, as I understand it, when you called and reached him at 2:30 that afternoon, you discussed the need for a meeting with Ray Hanzlik; is that correct?

Mr. DUPRE. Whatever time that was. I don't have the exact time, but I did talk to him on September 23.

Chairman ROTH. And say that you wanted a meeting with Mr. Hanzlik?

Mr. DUPRE. I was asking him—I was telling him of the problems we had in Kansas City, and I asked him if we did need to see Ray Hanzlik, could he help get me an appointment.

Chairman ROTH. You did not specifically——

Mr. DUPRE. I did not specifically ask him for a meeting.

Chairman ROTH. You did not specifically ask him for a meeting?

Mr. DUPRE. No, sir.

Chairman ROTH. Did Joe Wright, Jr., mention that he had had a discussion with Ray Hanzlik that day?

Mr. DUPRE. I can't recall if he did or not, no, sir.

Chairman ROTH. Thank you, Mr. Dupre.

Senator Eagleton?

Senator EAGLETON. Mr. Dupre, back in September 1982, how much was at issue insofar as you know, dollarwise, in the Anchor and Canal cases in terms of penalty and interest?

Mr. DUPRE. It was $7.6 million.

Senator EAGLETON. Was the penalty assessment on Anchor?

Mr. DUPRE. I don't recall what the penalty was.

Senator EAGLETON. Well, the record will show you that that was the penalty. Then the interest on that, at that point in time, would have accrued to another $8.6 million for a total of $16 million on the Anchor case. That is what the record shows up to this point. You don't have any dispute with that, do you?

Mr. DUPRE. Well——

Senator EAGLETON. Pull in your microphone, would you please, Mr. Dupre.

Mr. DUPRE. Whatever those numbers were, that's it.

Senator EAGLETON. You know the $7.4 million, and whatever the interest computation was on that.

Mr. DUPRE. Plus interest, that's correct.

Senator EAGLETON. With the miracle of compounding and what-have-you.

Mr. DUPRE. Right.

Senator EAGLETON. What interest did you have on the Canal case back then?

Mr. DUPRE. On the Canal case?

Senator EAGLETON. Yes.

Mr. DUPRE. Well, we did not have a PRO at that particular time. That had not been——

Senator EAGLETON. The PRO hadn't been issued in Canal?

Mr. DUPRE. No, sir.

Senator EAGLETON. Indeed, the PRO in Canal just got issued a little while ago. You knew there was some risk involved in the Canal case, because you said it was jeopardizing your balance sheet in some respects, wasn't it?

Mr. DUPRE. This $7.6 million plus interest was.

Senator EAGLETON. That is enough to put a good blemish on it right there, and then you could put a little footnote with, "Whoops: Canal. More to come."

Now, if Canal totaled $20 million penalty and interest, thereabouts, and Anchor was $16 million, the sum total of those two would be about $36 million. What would happen if you had to pay up $36 million to Uncle Sam——

Mr. DUPRE. So that they——

Senator EAGLETON [continuing]. If you went down the tubes from these cases?

Mr. DUPRE. Senator Eagleton, it would just take the company away.

Senator EAGLETON. It would blow it off the wall, wouldn't it?

What are the assets today, balance sheet assets, of Anchor and Canal, including other subs? There are a couple other subs that are not in the case, but I forget what they are called. One is a coal company. We have got a chart. Where is that balance sheet?

From Dun & Bradstreet, Anchor Gasoline Corp. consolidated financial data, which presumably consolidates Anchor Gasoline, Canal Refining, and then over here, McLanhan-something gas, Porter Oil, and another Anchor Coal. That is all part of the group?

Mr. DUPRE. Yes, sir.

Senator EAGLETON. Dun & Bradstreet says, estimated gross assets, 1982, $30 million. Would you dispute that? Let's make a copy of that and give it to Mr. Dupre. Have we got copies?

Mr. DUPRE. I don't have those records with me.

Senator EAGLETON. I will send this out. Do we have a copy? Make a copy. I will move on while we make a copy, but whatever it shows, a $36 million hit would be staggering to the future viability of Anchor and Canal.

Mr. DUPRE. It would be, yes, sir.

Senator EAGLETON. This was a life and death matter to Anchor and Canal.

Mr. DUPRE. Well, as far as a life and death deal, we didn't think this $36 million you were speaking of could hold up.

Senator EAGLETON. For instance, there are a lot of orthopedic surgeons in town that don't think they have engaged in malpractice and get hit with a $2 million judgment and don't think that that judgment will stand up, but maybe it does. If it does stand up, they are hit.

But if the bad news came home to roost, and you were forced to pay $36 million, you are finished.

Mr. DUPRE. That's correct.

Senator EAGLETON. So this was, I repeat, a matter of life and death to the survival of Anchor and Canal.

Mr. DUPRE. If that would have happened, but we did not expect that to happen.

Senator EAGLETON. Expect it to happen.

Mr. DUPRE. No, sir.

Senator EAGLETON. Was Joseph Wright, Sr., worried about this?

Mr. DUPRE. Well, we were all worried about it; yes, sir.

Senator EAGLETON. Was Joseph Wright, Sr., an owner of both Anchor and Canal?

Mr. DUPRE. Yes, sir.

Senator EAGLETON. How old was he back in 1982? Or how old is he today and we will subtract?

Mr. DUPRE. I don't know his age.

Senator EAGLETON. Is he a gentleman in his seventies?

Mr. DUPRE. I would say early seventies.

Senator EAGLETON. Had he devoted a lot of his life to this company?

Mr. DUPRE. Yes, sir; the major part of his life.

Senator EAGLETON. Was he founders with that other family, the Mockley family?

Mr. DUPRE. He joined the Mockley family.

Senator EAGLETON. He joined the Mockleys. When did he join the Mockleys?

Mr. DUPRE. I don't have——

Senator EAGLETON. Long before you were there. You have been there at Anchor for 9 or 10 years.

Mr. DUPRE. I have been with Anchor 31½ years.

Senator EAGLETON. You have been president for 10 years, but been with them 31½ years; 30½ years with Anchor. That is remarkable. Ms. Ferko has been 31 years with the Government. You have been 31 years with this one family?

Mr. DUPRE. Correct.

Senator EAGLETON. That is a remarkable line of service. How old are you, Mr. Dupre?

Mr. DUPRE. Fifty-eight.

Senator EAGLETON. So at age 26 or 27, you went with the Wrights?

Mr. DUPRE. Correct.

Senator EAGLETON. Thus, you are very, very closely acquainted with Joseph Wright, Sr., are you not?

Mr. DUPRE. I am.

Senator EAGLETON. Would you see him, back in those days, in 1982, would you see him on a daily basis, unless he were away on a trip or something?

Mr. DUPRE. No, sir.

Senator EAGLETON. No?

Mr. DUPRE. My office is in Louisiana. He is in Oklahoma.

Senator EAGLETON. Would you talk to him sometimes during the day on many days, not every day of the week, but quite often?

Mr. DUPRE. On many days, I spoke to him, and then it also went several days, maybe a week or 10 days I did not talk to him.

Senator EAGLETON. Would you communicate with him by mail?

Mr. DUPRE. Would you repeat that, please?

Senator EAGLETON. Did you communicate with him by mail?

Mr. DUPRE. Some by mail.

Senator EAGLETON. Sometimes by telephone.

Mr. DUPRE. Yes, sir.

Senator EAGLETON. Did you have interconnecting telex mechanisms whereby you could Xerox——

Mr. DUPRE. Yes, sir, we have that.

Senator EAGLETON [continuing]. Copies to him and he could Xerox them back to you?

Mr. DUPRE. Yes, sir, we do that.

Senator EAGLETON. So you could have a lot of communications with him that way, couldn't you?

Mr. DUPRE. Correct.

Senator EAGLETON. And next to Joseph Wright, Sr., you knew as much about Anchor and Canal and its predicament as any other living creature, didn't you?

Mr. DUPRE. That's correct.

Senator EAGLETON. Is Joseph Wright, Sr., worried about this business with the Department of Energy, these threatened liabilities?

Mr. DUPRE. Well, he was concerned.

Senator EAGLETON. Did he talk to you about it from time to time?

Mr. DUPRE. We discussed it occasionally.

Senator EAGLETON. Did he express his anxiety about it, his worry, his apprehension?

Mr. DUPRE. Well, he knew we were trying to negotiate and settle the case.

Senator EAGLETON. Yes.

Mr. DUPRE. And we discussed it occasionally.

Senator EAGLETON. And he had been with this company, too, 31 years, or he was there before you?

Mr. DUPRE. He was there before.

Senator EAGLETON. Before. This was his life interest. I mean, Anchor, and Canal, and Joseph Wright, Sr., were one and the same. This was his wherewithal in life. He devoted his life to this company; isn't that correct?

Mr. DUPRE. He devoted a lot of time, yes.

Senator EAGLETON. Was it the major source of his income?

Mr. DUPRE. I don't know. You'll have to ask him that.

Senator EAGLETON. But in its profitable days, was it a significant source of income to him, whether major, but significant?

Mr. DUPRE. Yes, it was.

Senator EAGLETON. So on September 14, 1982, a lawyer named Dunagan went to Kansas City.

Mr. DUPRE. Correct.

Chairman ROTH. Dunagan, by the way, is in the room here today, isn't he?

Mr. DUPRE. He was here.

Senator EAGLETON. You were conversing with him during the break.

Mr. DUPRE. He was here.

Senator EAGLETON. If we ever want him, he is around? He won't be hard to reach, will he?

Mr. DUPRE. He was here.

Senator EAGLETON. Is he a corporate attorney on the corporate payroll, or is he retained privately?

Mr. DUPRE. He is retained privately.

Senator EAGLETON. Retained privately. Was he retained specifically for the Anchor-Canal situation or retained for a series of things?

Mr. DUPRE. He was with another firm before coming with Canal.

Senator EAGLETON. Oh, he went on the Canal payroll, did he, as a house counsel?

Mr. DUPRE. No, sir; no, sir, we just hire him as needed.

Senator EAGLETON. As needed. Was he hired for things other than Anchor and Canal or just Anchor and Canal?

Mr. **Dupre**. He was for Anchor and Canal——

Senator **Eagleton**. It was his expertise.

Mr. **Dupre** [continuing]. Deal primarily with Department of Energy matters.

Senator **Eagleton**. My time is up. I will come back with Mr. Dunagan.

Chairman **Roth**. Senator Cochran.

Senator **Cochran**. Thank you, Mr. Chairman. Mr. Dupre, let me ask you this: Did you ask Joe Wright to do anything for the company or Anchor other than to help arrange a meeting between you and Ray Hanzlik?

Mr. **Dupre**. No, sir.

Senator **Cochran**. To your knowledge, did Joe Wright do anything other than make a call to ask that the meeting be held?

Mr. **Dupre**. To my knowledge, that's all he did.

Senator **Cochran**. That is all I have, Mr. Chairman.

Chairman **Roth**. Senator Eagleton.

Senator **Eagleton**. OK. So when did you retain Dunagan for the Anchor and Canal cases?

Mr. **Dupre**. I think it was in 1977 or 1978.

Senator **Eagleton**. Had there been any discussions between—that case was being handled out of Kansas City?

Mr. **Dupre**. That's correct.

Senator **Eagleton**. Had there been any discussions or correspondence between Kansas City and Anchor and Canal, or R.N. Dunagan, from the day you hired him until September 14, 1982?

Mr. **Dupre**. Oh, yes. We did a lot of discussions.

Senator **Eagleton**. A lot of what?

Mr. **Dupre**. We had a lot of discussions with R.N. Dunagan.

Senator **Eagleton**. You had a lot of discussions with Dunagan, but did you and R.N. Dunagan have any discussions, either verbal or in writing, with Department of Energy people in Kansas City?

Mr. **Dupre**. Yes, sir; we had some discussions with them.

Senator **Eagleton**. Who with?

Mr. **Dupre**. That was with David Jackson and Wehrle-Einhorn.

Senator **Eagleton**. Wehrle-Einhorn. Were these on the phone, or were they meetings, or were they letters, or what was it?

Mr. **Dupre**. I think it was a combination of letters, on the phone and meetings.

Senator **Eagleton**. As best you can recall, when did the meetings take place? I am talking prior to September 14, 1982.

Mr. **Dupre**. I don't have those records with me, but we do have them. We do have records on it.

Senator **Eagleton**. But were there in person meetings between Jackson, Wehrle-Einhorn, and you, and R.N. Dunagan prior to September 14, 1982?

Mr. **Dupre**. I would have to take a look at my records on that. We do have records.

Senator **Eagleton**. As a matter, you think there were.

Mr. **Dupre**. We do have records on it; yes, sir.

Senator **Eagleton**. Well, you see, the records are probably down there in Louisiana, right?

Mr. **Dupre**. Probably so, yes.

Senator EAGLETON. Yes; but your gut response is that there were some meetings, you felt, and there were some discussions?

Mr. DUPRE. We had had meetings before; yes.

Senator EAGLETON. Meetings before, OK.

How was the meeting set up on September 14, 1982? How did Dunagan get to Kansas City, not what airline he took, but how was it that he came to be he went to Kansas City?

Mr. DUPRE. He called up, and he made that appointment with Jackson and Wehrle-Einhorn.

Senator EAGLETON. Just as there had been other meetings before, you say, but you would have to check your reports?

Mr. DUPRE. Yes, sir.

Senator EAGLETON. Here was the September 14, and Dunagan went there alone; you didn't go with him?

Mr. DUPRE. That's correct, he went alone.

Senator EAGLETON. Did Dunagan discuss the meeting when he came back or left Kansas City?

Mr. DUPRE. Did he discuss the meeting with me?

Senator EAGLETON. Yes, sir.

Mr. DUPRE. Yes.

Senator EAGLETON. Did he discuss he had been directed with a PRO?

Mr. DUPRE. Yes, he did.

Senator EAGLETON. Did you know what a PRO was?

Mr. DUPRE. I was getting to understand what it was by then; yes, sir.

Senator EAGLETON. Did you know it was the starting gun of a case, save one other additional event? But when you are hit with a PRO, it isn't like a Christmas card. I mean, it is fairly serious, especially $7.4 million plus interest, correct?

Mr. DUPRE. That's correct.

Senator EAGLETON. So were you worried when he reported it to you?

Mr. DUPRE. For a small company, that is serious.

Senator EAGLETON. Very serious. Did you report it to Joseph Wright, Sr.?

Mr. DUPRE. I don't have the particulars on it, but I know we discussed it; yes.

Mr. EAGLETON. Did you discuss it at length?

Mr. DUPRE. Well, I'm sure we did.

Senator EAGLETON. Did you discuss it on more than one occasion?

Mr. DUPRE. I would say yes.

Senator EAGLETON. Was Joseph Wright, Sr., extremely anxious about this when served with a PRO?

Mr. DUPRE. I don't know what you mean, anxious.

Senator EAGLETON. Apprehensive, worried, distraught.

Mr. DUPRE. He was concerned.

Senator EAGLETON. Concerned. Did you discuss any way to remedy the situation, you and Joseph Wright, Sr.?

Mr. DUPRE. Well, we needed to take a look at it, and we could see from the notice of probable violations that there were a lot of mistakes, a lot of errors, and they were also admitting to those errors and mistakes, and I believe you heard today, they also admitted that it was full of errors and mistakes.

Senator EAGLETON. So the fears that you and Joseph Wright, Sr., might have had once looking at it, did they totally evaporate then because you found some errors?

Mr. DUPRE. No, sir; I didn't say that. What I'm saying is that we were concerned, but we also knew that there was a lot of errors, a lot of mistakes, and we needed to take a look at it and get back with them.

Senator EAGLETON. Get back with them; get back with Kansas City?

Mr. DUPRE. Kansas City, right.

Senator EAGLETON. So when do you think you talked to Joseph Wright, Sr.? I mean, did you talk to him probably on September 14, the day you got hit with the PRO?

Mr. DUPRE. I would say I spoke to him soon after I heard from R.N. Dunagan about it.

Senator EAGLETON. Say for the week following, from September 14 to September 21, that is a calendar week, do you think you talked to Joseph Wright, Sr., many times about it during that week?

Mr. DUPRE. I would say not many times, but I'm sure I spoke to him probably two or more times.

Senator EAGLETON. Two or more times.

Did you and Joseph Wright, Sr., come to an agreed-upon course of action? Joe is talking to you: "Coty, we have to do something about it."

Coty. "Yes, sir, Mr. Wright; this is serious. Now, they have got a lot of errors in there. There are some errors in this, but the bottom line is $7.4 million plus interest, that is $16 million. This wipes us out. This is serious, Mr. Wright."

"I agree with you Coty."

Did you have conversations like that?

Mr. DUPRE. We have conversations about it. I can't recall the exact wording.

Senator EAGLETON. Did you and Mr. Wright say: "We have got to do something about this"?

Mr. DUPRE. We did discuss doing something about it; yes.

Senator EAGLETON. What did you discuss doing?

Mr. DUPRE. We discussed having further meetings with Kansas City; we discussed it with our attorney, R.N. Dunagan; and we, at that time, discussed the possibility of, if the negotiations didn't go any better in the future, that we would try to get with Ray Hanzlik and his people.

Senator EAGLETON. So some time during that week after the 14th, you discussed some options, the way I hear you: getting back with Kansas City; discussions further there. If that didn't lead to anything, then getting together with Ray Hanzlik.

Mr. DUPRE. Correct.

Senator EAGLETON. Had you met Ray Hanzlik by that time?

Mr. DUPRE. No, sir. I met Ray Hanzlik on October 7 or 8.

Senator EAGLETON. Yes; at that dinner where he spoke; is that right?

Mr. DUPRE. Right.

Senator EAGLETON. American Petroleum Association.

Mr. DUPRE. American Petroleum Refiners Association.

Senator EAGLETON. So you didn't know him on the 14th or immediately thereafter. Did Joe Wright, Sr., know him?

Mr. DUPRE. I don't think he did, no, sir.

Senator EAGLETON. Well, how did it come to your mind to get together with Ray Hanzlik? How did you know the names?

Mr. DUPRE. Well, he was the administrator.

Senator EAGLETON. You knew that much about the bureaucracy of the department to know that he was top dog in ERA?

Mr. DUPRE. That's correct.

Senator EAGLETON. And it was within your range of options that you had to get to him?

Mr. DUPRE. If we could not further our negotiations with Kansas City.

Senator EAGLETON. Hanzlik was key.

Mr. DUPRE. Well, he was the administrator.

Senator EAGLETON. If you couldn't do it in Kansas City, he was really the key guy, wasn't he?

Mr. DUPRE. He was the fellow we were going to try to see, he and his people.

Senator EAGLETON. Dunagan went out there to Kansas City on the 14th. Did he discuss his negotiating posture with you; how he was going to negotiate out there on the 14th?

Mr. DUPRE. Did he discuss his negotiating posture with——

Senator EAGLETON. Yes, what was going to be his position; what was going to be his format; what was going to be his technique in negotiating with Mr. Jackson and Mr. Wehrle-Einhorn?

Mr. DUPRE. I'm sure we discussed it. I don't have the exact recollection of it.

Senator EAGLETON. Would you recall that he was going to make an offer of settlement of $50,000?

Mr. DUPRE. I don't recall if it was that specific meeting or not, but we did make an offer of $50,000.

Senator EAGLETON. You did make an offer somewhere along the line of $50,000.

Mr. DUPRE. Yes, sir.

Senator EAGLETON. If others under oath in the record testified that it was made at the September 14 meeting, you wouldn't dispute that.

Mr. DUPRE. Well, like I say, I don't have recollection of that.

Senator EAGLETON. The penalty liabilities of $7.4 million, the interest adds up to $16 million, and you and Joseph Wright, Sr., were worried about this situation; that the company was in a life-and-death situation. The balance sheet was impaired because of the notation on it of the pendency of the Anchor case, and you and Dunagan decided to go, that Dunagan would go out to Kansas City and offer on a $16 million case $50,000, which is a third of a cent on the dollar.

Mr. DUPRE. We felt that we hadn't done anything wrong and that was our offer at the time; that's correct.

Senator EAGLETON. So you claim that Kansas City wasn't cooperating, wasn't being reasonable, wasn't working with you. You even discussed with Joe Wright, Sr. "We are going to have to move on and move higher with Ray Hanzlik," and you send Dunagan out there with a third of a cent on the dollar offer.

Were you serious?

Mr. Dupre. When you are negotiating, there's several numbers that may come up, and that's the one we chose to offer.

Senator Eagleton. My time is up. I will be back again.

Chairman Roth. Senator Rudman?

Senator Rudman. Mr. Dupre, I get the impression from your testimony that you and your lawyer don't think much of the Government's case against your company; is that correct?

Mr. Dupre. I feel that there are a lot of mistakes in it; a lot of errors; and especially after hearing the Government's chief computer man say that he thought that might be zero, that claim.

Senator Rudman. He also said it turned out that he had the wrong information. But aside from that, you didn't think much of the Government's case way back when it was in Kansas City.

Mr. Dupre. I was concerned about it, but I knew there were a lot of mistakes. We knew there were a lot of mistakes.

Senator Rudman. As a matter of fact, the *Canal* case is now under litigation; is that correct?

Mr. Dupre. That's right.

Senator Rudman. And the other case is still pending?

Mr. Dupre. Still pending.

Senator Rudman. Who came up with the $50,000 figure, you or your lawyer?

Mr. Dupre. I don't have a—I can't recall who did offhand. I would say we did.

Senator Rudman. You did.

Mr. Dupre. I would say we did.

Senator Rudman. And made them that offer.

Mr. Dupre. Yes, sir.

Senator Rudman. When Senator Eagleton says that offer was one-third of 1 cent, if the Government's claim was accurate. You don't know whether it is accurate or not. You dispute the claim. You claim you don't owe them the amount of money that they say you owe them; is that correct?

Mr. Dupre. That's correct.

Senator Rudman. So much for that, because we aren't going to litigate that case here. That is going to be done in another forum.

I just want to ask you two questions: First, did you and Mr. Wright ever discuss between yourself, with your lawyer, or with any other parties, asking Mr. Wright, Jr., to assist you in settling this case at a figure?

Mr. Dupre. No, sir.

Senator Rudman. Second question: Did you ever discuss with Mr. Wright, with your lawyers, with any other parties or employees the possibility of Mr. Wright getting you favorable treatment?

Mr. Dupre. No, sir, we never did discuss that.

Senator Rudman. The last question is, Have you ever discussed the essential of this case with Mr. Wright, Jr?

Mr. Dupre. No, sir; I never have.

Senator Rudman. In any way?

Mr. Dupre. In any way.

Senator Rudman. So Mr. Wright, if he knows anything about this case, doesn't know it from you.

Mr. Dupre. He did not get it from me.

Senator RUDMAN. Thank you.

Chairman ROTH. Mr. Dupre, let me just ask you one question. You were asked about the amount of potential liability of Anchor. Did the Kansas City ERA office not offer to settle the matter for $2 million at one stage on 1982?

Mr. DUPRE. At one stage; yes, sir.

Chairman ROTH. So that you are not necessarily facing the demise of your company over this case; is that correct?

Mr. DUPRE. That is correct. The numbers were changed considerably.

Chairman ROTH. Senator Cochran?

Senator COCHRAN. Mr. Chairman, let me just ask one or two questions in connection with that.

I think David Jackson was the witness who testified earlier today about offering a settlement claim for $2 million, and I was wondering whether, as a part of that conversation which I think you may have been a part of on September 24, did he state at that time that the way he reached that figure was to make the offer based on 60 percent of the amount of the claim that he felt he was on solid ground on?

Mr. DUPRE. I remember he stating that that was based on what he—they thought the claim was worth for the government. I can't recall the 60-percent figure.

Senator COCHRAN. If the 60 percent of the total that he thought he was on solid ground claiming was a part of this negotiating process there, that translates into something less than $4 million as the amount that they felt was a solid claim. Was that ever discussed in the negotiation?

Mr. DUPRE. It was discussed that the reason he was bringing it down was they figured their claim was—they had a good claim for that amount.

Senator COCHRAN. That included accumulated interest on whatever claim they had for any violations of regulations; is that right?

Mr. DUPRE. The $2 million, that was it.

Senator COCHRAN. It included acumulated interest and everything.

Mr. DUPRE. Yes.

Senator COCHRAN. So when the Senator was asking you about $7.6 million plus $16 million in interest and talks about the claim that your company was faced with as being in that range, the fact of the matter is the offer of settlement including accumulated interest as of September 24, according to the person who was in charge of the negotiaitons, was $2 million?

Mr. DUPRE. They were offering to settle it for $2 million.

Senator COCHRAN. Thank you, Mr. Chairman.

Chairman ROTH. Senator Gore.

Senator GORE. Thank you, Mr. Chairman.

I missed much of the testimony of this witness and the questioning, so I will keep my questions short for fear that I might otherwise duplicate some questions already asked.

I heard in your opening exchanges, Mr. Dupre, I heard you refer to Mr. Joe Wright, Jr., as a minor stockholder. In percentage terms, I suppose that is accurate, but you don't challenge the fact that his stock holdings are over worth more than one-half a million dollars, do you?

Mr. DUPRE. I don't know exactly what that figure would be, Mr. Gore.

Senator GORE. OK. I think——

Mr. DUPRE. It is 3 percent.

Senator GORE. Three percent?

Mr. DUPRE. Yes, sir.

Senator GORE. In March 1982, Mr. Wright's confirmation disclosure statement listed the value of the stock at $700,000. I understand that when you use the phrase minor stockholder, you are referring to a percentage basis?

Mr. DUPRE. That's correct.

Senator GORE. But in another interpretation, that is a major holding; at least in my world it would be a major holding.

Second, you have testified that your reason for contacting Mr. Wright, Jr., was your concern about the delay in the settlement negotiaitons; is that right?

Mr. DUPRE. That's correct.

Senator GORE. Your last meeting with the Department of Engergy officials was on November 8, 1983; is that correct?

Mr. DUPRE. Correct, but I——

Senator GORE. How come the concern now about the delay in the negotiations?

Mr. DUPRE. Let me correct that. We had one meeting just a few months ago, a couple of months ago in Dallas.

Senator GORE. After the Wall Street Journal story?

Mr. DUPRE. Oh, yes. This was after. This was probably 6, 8 weeks ago.

Senator GORE. What I am getting at is, when the PRO was issued, you were quite concerned. The meeting, the conversation on the telephone between you and Mr. Wright and the conversation between Mr. Wright and Mr. Hanzlik took place one day before your meeting that had previously been scheduled for settlement negotiations; correct?

Mr. DUPRE. It had not been previously scheduled when I spoke to Joe Wright, Jr.

Senator GORE. I see. It was scheduled that afternoon, after you talked to Wright?

Mr. DUPRE. That's correct, late that afternoon.

Senator GORE. OK. Now, if you were concerned about delay in settling, why did you show no concern about delay in settling after November 8, 1983, after that last meeting for a 2-year period prior to the time the Wall Stree Journal article came out?

Mr. DUPRE. We continued to be concerned by it. We continued to contact the Department of Energy, trying to get back with them, but they have been always awfully, awfully slow in this process. And just because we didn't meet, that's not saying we didn't try to get with them. And they were having a lot of trouble with their audit, and I would say that they were the ones that were having a hard time coming up with a corrected number.

Senator GORE. On November 8, 1983, at that time, DOE was computing your liability to be near zero; isn't that correct?

Mr. DUPRE. At one point, that is correct.

Senator Gore. And at the time of the very last meeting prior to this year, they were computing your liability to be near zero. Right?

Mr. Dupre. Mr. Gore, they had all kinds of computing and calculations, and we didn't know exactly what their numbers were, and they didn't know, either.

Senator Gore. Did you know what numbers you supplied to them on the nonproduct costs?

Mr. Dupre. We have records of what we supplied to them.

Senator Gore. Did you personally sign off on the data that you supplied in May 1983 on the nonproduct costs?

Mr. Dupre. No, sir, I didn't personally sign.

Senator Gore. Your lawyer provided that to, I believe it was Crowell. Your lawyer provided that to, I believe it was Crowell. Your lawyer provided it to Crowell, the DOE computer analyst. Are you aware of that?

Mr. Dupre. Well, I knew that they were in contact, yes.

Senator Gore. My point is that when you felt like DOE was really interested in prosecuting this case and recapturing the alleged overcharges, you were concerned about a delay.

Your testimony is that you remained concerned, but there was no activity after that meeting on November 8, 1984, until the Wall Street Journal article appeared on May 7, 1985.

And to date, no PRO has been published yet. Are you still anxious to settle? Are you still concerned about the delay?

Mr. Dupre. We are, and we would like to settle it; yes, sir.

Senator Gore. I am sure that you have been asked questions while I was out of the room about the substance of your conversations with Joe Wright, Jr., and although I am very curious about that, I am confident they were explored in depth, so I will not belabor the point at this time. I will get it in the record.

Thank you, Mr. Chairman.

Senator Eagleton. OK, Mr. Dupre, on this $2 million, were you in attendance during the Dingell hearing? I want to talk about the one over on the House side.

Mr. Dupre. No, sir.

Senator Eagleton. You knew there was one of those.

Mr. Dupre. I heard about it.

Senator Eagleton. And Mr. Wehrle-Einhorn and his testimony is put in the record; he testified "When Mr. Dunagan began asserting that the firm was in financial jeopardy, I suggested if that could be shown, financial jeopardy, that we might be willing to settle for a substantially lower figure of about $2 million."

That is in the *Anchor* case, the *Anchor* case. That is all that Wehrle-Einhorn and Jackson handled. So if you could show you were in financial jeopardy, so not to close your doors, you settle *Anchor* for $2 million. You settle *Anchor* for $2 million on a base of $16 million and then you settle *Canal* based on $30 million. Let's say you would settle for $3 million. What would a $5 million hit; $2 million for *Anchor*, $3 million for *Canal*, have done to your company?

Mr. Dupre. That would be rough on it.

Senator Eagleton. Rough?

Mr. Dupre. Yes, sir.

Senator EAGLETON. But you would breathe?

Mr. DUPRE. Well, I don't know if we could operate. We may have to call in——

Senator EAGLETON. So that even the reduced figure was life and death.

Mr. DUPRE. It would have been rough; yes, sir.

Senator EAGLETON. So whether it is $36 million, I mean that is crushing. That is a ton of rocks that closes you up, and even $2 to $5 million would be rough, maybe precariously rough. So that once again, these two cases were life and death to the Anchor Co.

Now, Dunagan goes out there and makes this majestic $50,000 offer. You and he talked it over. In fact, you think maybe you came up with that figure, because you wanted to show how serious you were to settle these liabilities that were haunting your company, jeopardizing your company, and you made an opening offer of $50,000 to show how serious you were.

They were flim-flamming you around, you felt; they were delaying you; they weren't accommodating you; they weren't doing it the way you liked, so you wanted to show you serious you were. You guys came up with $50,000; right?

Mr. DUPRE. Correct.

Senator EAGLETON. They didn't buy that $50,000. They hit you with the PRO, right?

Mr. DUPRE. Correct.

Senator EAGLETON. Then you knew how serious they were. Did Dunagan tell you when it was likely that that PRO might be filed in the Federal Register and the clock would really start ticking? Did Dunagan ever discuss that with you, what the next step was after the PRO?

Mr. DUPRE. Correct, he did.

Senator EAGLETON. He did. What did he tell you, that something had to be filed in the Federal Register?

Mr. DUPRE. I don't have the recollection of how he told me.

Senator EAGLETON. But he discussed the next step with you.

Mr. DUPRE. Right, he did.

Senator EAGLETON. He was a good lawyer; you trusted him. He was legal.

Mr. DUPRE. Right.

Senator EAGLETON. Any good lawyer, knowing this process, would have told you, "Coty, after this PRO, the next thing is for it to go in the Federal Register," and normally, it goes in within ten to 30 days as per the inspector general of the Department of Energy, whose records we will put in the record momentarily; 10 to 30 days; the clock is ticking on Anchor.

Did he tell you that, or words to that effect?

Mr. DORSEN. Senator, could I say something?

Senator EAGLETON. Yes.

Mr. DORSEN. We are getting into matters of attorney-client privileges in discussing negotiations. I repectfully would ask that that line of questioning not be pursued.

Senator EAGLETON. I can't take that, counselor. Mr. Dunagan is a full, up-to-the-neck participant in this matter. He and Anchor cannot shield themselves by some attorney-client privilege. If you are coconspirators in a situation to thwart the law, you are not shielded in that conspiracy by any attorney-client privilege.

Mr. **Dorsen**. I agree with that abstract statement of the law, Senator, but I do not think the facts warrant any conclusion or inference that Mr. Dunagan or Mr. Dupre was involved in any such conduct, and I therefore respectfully ask——

Senator **Eagleton**. Specify what part of my question it is that you object to on attorney-client.

Mr. **Dorsen**. Senator, I object to the portion of the question that asks this witness what Mr. Dunagan told him concerning the practice of the ERA and what was likely to happen, what options were open in terms of pursuing the defense of the ERA's claim under the law.

I think the record has been stated by others as to the ERA's practices, but I think discussion between a lawyer and his client about what the ERA is likely to do and what options are open is protected by the attorney-client privilege.

Senator **Eagleton**. I will go at it this way, and then you can renew your objection, and ultimately, we will have to get a ruling from the chief justice here.

Did Mr. Dunagan, your lawyer, advise you as a corporate representative of Anchor as to what the next procedural step was after the filing of a PRO, after the handing out of a PRO?

Mr. **Dorsen**. Senator, could I ask that the witness be permitted to answer but that this would not constitute the waiver of any privilege.

Senator **Eagleton**. That is all right with me. Is it all right with you, chief?

Chairman **Roth**. That is satisfactory.

Mr. **Dupre**. Senator, I would say we discussed it. I have no recollection of whatever that was done. But I'm sure we did.

Senator **Eagleton**. Oh. All right.

Did you know when Dunagan came home with the PRO that things were getting even stickier than they had been? Did you take the PRO pretty seriously?

Mr. **Dupre**. Yes, sir.

Senator **Eagleton**. That Jackson had?

Mr. **Dupre**. We were very concerned.

Senator **Eagleton**. So your concern was heightened over what it had been before, intensified, heightened, up.

Mr. **Dupre**. That's correct.

Senator **Eagleton**. And was the same true for Joseph Wright, Sr.?

Mr. **Dupre**. I would say it was, also, yes.

Senator **Eagleton**. Therefore, from September 14 on, from the days following September 14, the days of precarious intensity for Anchor and Canal, the PRO had been handed to Dunagan; in Kansas City; Jackson had said, "Get back to me in 10 days or so". Things were tight.

Mr. **Dupre**. I think we did get back with them on September.

Senator **Eagleton**. Twenty-four.

Mr. **Dupre**. Twenty-fourth.

Senator **Eagleton**. Correct.

Mr. Dupre. And at one point, I don't exactly recall when, but I think it was on the 24th, through our negotiations, we made an offer of $500,000.

Senator Eagleton. Correct. We got to that, and you are correct. Dunagan; the 24th; and you were with him this time.

Mr. Dupre. Yes, sir, I was with him.

Senator Eagleton. Because things now were getting sticky. You decided that that ridiculous $50,000 offer ought to go by the board; that was so ridiculous as to be an insult. You got it up to a half a million, not an unrespectable amount of money.

Mr. Dupre. It's a lot of money for a small company.

Senator Eagleton. Intervening between the 14th and the 24th were four attempted telephone calls, one of them successful, by you and Joseph Wright, Jr., at 2-something p.m. on that afternoon, 2:25 p.m.

Mr. Dupre. I don't recall the time, but that is correct. We did have a telephone conversation.

Senator Eagleton. We will take it as a given, at 2:25 from the time sheets of Joe Wright's office.

So finally, you and Joe talk at 2:25. You tried to call him at 10:10; that didn't get through. Did Joe call back at 10:50 something? Yes. Coty calls at 10:10. Does Joe call at 10:50? I don't know. Anyway, there is one at 12:15. Finally, you guys get together at 2:25.

The discussion of that call we will go into later, but Joe doesn't tell you that he has talked to Ray Hanzlik?

Mr. Dupre. I have no recollection of that.

Senator Eagleton. Mr. Dupre, we have listened to lots of testimony, some of it compelling, some of it revolting, some of it interesting, some of it boring.

But I have never heard an answer so without credulity in my life. Do you mean to tell me that during a life-threatening week to your company and you are talking to Joe Wright, Jr., one of the most important men in Washington, DC, and you are talking about the life and death of your company; that Kansas City ain't treating you fair and we got to go up top to Ray Hanzlik, you can't remember what Joe Wright tells you? "Don't worry, Coty, I have already talked to Ray."

Doesn't he mention he talked to Ray? He talked to him that morning?

Mr. Dupre. I have no recollection of it, Senator. I did talk to him, and I told him what our problem was at Kansas City.

Senator Eagleton. Did he say he would talk to Ray?

Mr. Dupre. We discussed that if I did need it, would he call Ray for a future appointment.

Senator Eagleton. So you say, "Joe, if I need help, will you call Ray, and he says—what does he say? You mean he doesn't say, "Coty, don't worry, babe, I have already talked to old Ray."

He doesn't tell you he has talked to Ray just a few minute ago?

Mr. Dupre. First of all, you have to realize that is over 3 years ago, and I have no recollection of the exact——

Senator Eagleton. Oh, but this is one of the most vital phone calls of your life. This is like getting a call saying you have just won the New York lottery. This is a call to remember. You would never forget this call. This call is drummed it your head. All of the subsequent events have drummed it into your head.

You know Joe told you he already talked to Ray. Tell us the honest truth, Mr. Dupre. You can't believe any other thing.

Mr. DUPRE. I can hear you very clear. I have no recollection of it.

Senator EAGLETON. Do you want us to believe that?

Chairman ROTH. The time of the Senator is well beyond the 10 minutes.

Senator COCHRAN. I have no other questions, Mr. Chairman.

Senator GORE. I only have a couple of short ones, Mr. Chairman. I know the hour is late.

Chairman ROTH. Senator Gore.

Senator GORE. Mr. Chairman, Fred Asselin of the committee staff conducted an interview with Robert Wehrle-Einhorn, and in this interview, Mr. Wehrle-Einhorn talked about the meeting on September 14, 1982, the key meeting between the Kansas City DOE officials and the Anchor officials.

I am quoting here from this memorandum of the interview with Mr. Robert Wehrle-Einhorn:

> Wehrle-Einhorn remembered the meeting as one in which the Anchor representatives admitted the allegations against them were correct, yet, Wehrle-Einhorn added, "They didn't take this very seriously at all."
>
> "At the meeting and at those which were to follow," he said, the Anchor representatives did not conduct themselves as he would have expected them to. "They were silly people to deal with," he said, explaining that they seemed not to appreciate the significance of the process that had begun against them and to appear to believe that if they were found to owe restitution, they could settle the case with an unrealistically small payback.

Did you feel, during the meetings with the DOE officials, that you had kind of an inside track and that you might not have to take these discussions all that seriously?

Mr. DUPRE. No, sir. We took it seriously. We negotiated seriously.

Senator GORE. Did you feel that if they rejected your settlement offer that you could successfully appeal it in Washington?

Mr. DUPRE. We negotiated with the Kansas City people for quite some time; we stated off at $50,000 and then went up to $500,000, and they would not budge at all. It was set when we had the last meeting with them on September 24.

Senator GORE. Did you acknowledge in the September 14 meeting that the allegations against you were correct?

Mr. DUPRE. I was not in attendance at that meeting.

Senator GORE. Who was there, in the September 14 meeting? Was it just Mr. Dunagan; is that correct?

Mr. DUPRE. Mr. Dunagan.

Senator GORE. Hold on just one second.

[Pause.]

Senator GORE. Our computer printout of the September 14 meeting lists it as a meeting with lawyer Dunagan and Vice President Dupree.

Mr. DUPRE. That is probably another problem you all had with your computers. [Laughter.]

Senator GORE. Could be, could be. That is why we are checking.

I believe Mr. Jackson said this morning that you were at that meeting, Mr. Dupre. Did you hear his testimony? I may be mistaken about that, but I thought that he said that.

Mr. DUPRE. He may have said that, but I was not there.

Senator GORE. You are certain in your mind that you were not at that meeting?

Mr. DUPRE. That's correct.

Senator GORE. Were you at any of the settlement negotiations?

Mr. DUPRE. Yes, sir, I was, but not this particular one.

Senator EAGLETON. The 24th.

Mr. DUPRE. The 24th I was.

Senator GORE. I wonder, Mr. Chairman. Mr. Dunagan is in the room. I wonder if he could confirm that he was the only representative of the company in that meeting. Is that permissible?

Chairman ROTH. No. We are going to proceed with the current witness.

Senator GORE. Is that a punctuation mark on your ruling?

No further questions, Mr. Chairman. I will pursue it tomorrow or whenever.

Senator EAGLETON. All right, Mr. Dupre. We are coming down the homestretch here. I know you will be happy to have this over, as we all will.

I am a very good notetaker. I can take verbatim notes. You testified under direct examination from Chairman Roth, with respect to the telephone conversation on the 23d of September that you said to Joe Wright, Jr.: "If we need assistance and come to Washington to see Ray Hanzlik, would you help?"

Do you recall testifying to that on—we will call it direct by Senator Roth?

Mr. DUPRE. "Would you help with the appointment."

Senator EAGLETON. Would you help with what?

Mr. DUPRE. Getting me an appointment.

Senator EAGLETON. Would you help getting me an appointment?

Mr. DUPRE. Correct.

Senator EAGLETON. We will see how the record reads unexpurgated.

Then, later on, under direct, you testified that, "My impression was Joe was going to talk to Hanzlik."

Do you remember saying that to Senator Roth?

Mr. DUPRE. That's correct.

Senator EAGLETON. How did you get that impression?

Mr. DUPRE. Well, I had no recollection that he had spoken to him. I was just asking, if we need it, would he talk to him.

Senator EAGLETON. How did you get an impression that Joe was going to talk to Hanzlik when Joe had already talked to Hanzlik?

Mr. DUPRE. About a particular—I did not ask him for a particular date on it.

Senator EAGLETON. No. I don't mean a particular date, but one thing you wanted was a little talk between Joe and Ray.

Mr. DUPRE. That's all I wanted.

Senator EAGLETON. A little talk between Joe and Ray, and that that is all you wanted.

I think you are coming clean with the committee. I think that is all you wanted.

Mr. DUPRE. All I wanted, was he able to get me a meeting date if I needed one.

Senator EAGLETON. A little talk between Joe and Ray, that is all you wanted, and you don't have any recollection of Joe telling you, "Coty, calm down. Coty, I have already talked to Ray, just this very day, just a little while ago, I talked to Ray."

Do you have any recollection of that?

Mr. DUPRE. If I did, I would tell you, Senator.

Senator EAGLETON. I am sure you would.

Did Joe tell you he had recently met Ray at a cocktail party and talked about the Anchor and Canal cases?

Mr. DUPRE. No, sir, he's never discussed that with me.

Senator EAGLETON. Never discussed it with you.

Now, if you wanted to meet with Hanzlik, because you testified earlier that you met him at this petroleum luncheon or dinner, and good old Ray said, "If any of you little, old oil guys want to come up to me and talk about your little, old problems with our Department, just come right on," sort of like a faith healing. So you said you were one of the first in the line to get up there and talk to Ray, and said "Ray, count me in. I'm Coty Dupre from Anchor-Canal, I would like to talk to you about it," and you stop, and Ray said—what did he tell you at that luncheon meeting when you told him all you people were coming up to be saved?

Mr. DUPRE. I told him we were having problems in Kansas City and that we had planned future meetings—a meeting with them. I didn't have an exact date.

Senator EAGLETON. Did you ask for a meeting?

Mr. DUPRE. I asked, I asked could we see him; if, after the meeting in Kansas City, if we wanted a meeting could we see him, and he agreed.

Senator EAGLETON. What was the date of that luncheon?

Mr. DUPRE. That was October 7 or 8; I'm not sure.

Senator EAGLETON. Did you write Ray Hanzlik a letter on October 11, 1982?

Mr. DUPRE. Yes, sir.

Senator EAGLETON. I offer this letter for the record, Mr. Chairman.

Chairman ROTH. Without objection.

Senator EAGLETON. It is our only one. It is short, I will read it. It is signed Coty Dupre. It is on Anchor Gasoline Corp. letterhead.

"Dear Mr. Hanzlik—"

You call him Mr. Hanzlik.

Mr. DUPRE. Yes, sir.

Senator EAGLETON. Joe calls him Ray. You call him Mr. Hanzlik, and you had met him more often than Joe pretends to have met him. Joe never met him but calls him Ray. You met him, at least at this luncheon, but you still call him Mr. Hanzlik.

Mr. DUPRE. That was the first time I met him.

Senator EAGLETON. Yes, courteous.

Thank you for spending some time with me during the recent APRA meeting in Washington.

During our discussion, I mentioned that we will be meeting with your Mr. David H. Jackson in Kansas City later this month on or about October 18.

Attached is our letter dated September 30, 1982, consisting of four pages and summary of the information consisting of nine pages which we forwarded to Mr. Jackson last week and we are certainly hopeful that the matter of this settlement can be resolved very soon.

Yours very truly, Coty Dupre.

Nice letter? Do you remember that?

Mr. **Dupre**. Yes, sir.

Senator **Eagleton**. Why isn't there a fourth paragraph in here or a P.S. "Dear Mr. Hanzlik, you know I said I wanted to meet with you. I want to meet with you."

Why didn't you ask Mr. Hanzlik direct?

Mr. **Dupre**. Why didn't I do what?

Senator **Eagleton**. Why, when you wrote to Mr. Hanzlik, and you tell him about the Kansas City stuff and you are sending copies of material, why didn't you ask for a meeting?

You asked for a meeting at the luncheon. This is the followup line after the meeting. The first line is the courtesy:

> Thank you for spending some time with me at the recent meeting.

Why didn't you have a fourth paragraph, "Finally, Mr. Hanzlik, can we have a meeting in Washington sometime? I will come down with my Lawyer Dunagan, and we can talk this over."

Mr. **Dupre**. We were still meeting with the Kansas City people and hopeful——

Senator **Eagleton**. But you had already moved around them. You asked for a meeting at the luncheon verbally. By this time, you had already called Joe. You had already talked to Joe, Sr., who said:

> This thing we have to get moving and maybe we have to get Joe to get us to Hanzlik.

So you already were completing your end run around Jackson and Kansas City. Why didn't you put in a fourth paragraph, "We would like to come to your Washington office and meet with you, Mr. Hanzlik"?

Mr. **Dupre**. I was hoping we could settle that on my trip to Kansas City.

Senator **Eagleton**. Oh, on the one hand, Kansas City isn't helping; they won't budge; they are hard; they won't consider your side of the case. You have already taken these steps to go around Kansas City, but you still thought you could settle in Kansas City?

Mr. **Dupre**. That's correct.

Senator **Eagleton**. Would it be a fair alternative judgment to that letter that the reason you didn't put in the letter, "Ray, or Mr. Hanzlik, I want to come see you in your office," was you knew that the arrangements with Hanzlik had already been taken care of by Joe?

Mr. **Dupre**. We were hoping to settle this in Kansas City.

Senator **Eagleton**. I see. Why the flurry of calls to Joe on the 23d?

Mr. **Dupre**. We were hoping that would be the last meeting.

Senator **Eagleton**. Why get Joe into this all? Why did you make the calls, the four calls to Joe on the 23d? What was so frantic about the 23d; a burst of calls, Coty Dupre, Joe Wright, back and forth. Why on the 23d, if you are still hoping for Kansas City? You don't need old Joe. Good old boys in Kansas City are going to take care of you; you don't need old Joe. You don't need to call four times.

The reason you didn't put it in the letter to Mr. Hanzlik is you knew you already had your operative; you had the son of Joseph Wright, Sr.

Joseph Wright, Sr., you had been with him 31 years. Joe Wright was 16 years of age when you joined that company. You also know Joe's sister, didn't you? What's her name, a shareholder?

Mr. DUPRE. Julie.

Senator EAGLETON. Julia. How old was she when you joined the company?

Mr. DUPRE. I don't know.

Senator EAGLETON. They have grown up while you have been with Joe Wright, Sr. Are you one of Joe Wright, Sr.'s most faithful business confidants as far as Anchor and Canal are concerned?

Mr. DUPRE. I hope so.

Senator EAGLETON. Nobody could be more faithful.

Mr. DUPRE. I hope he thinks of me that way.

Senator EAGLETON. Yes. Joe, Jr., have you ever been hunting or fishing with young Joe?

Mr. DUPRE. Yes. We have been hunting together.

Senator EAGLETON. How many times?

Mr. DUPRE. I think we went two or three times.

Senator EAGLETON. Two or three times. Where did you go, Louisiana?

Mr. DUPRE. No, sir, we went in Mexico.

Senator EAGLETON. Mexico. Who, just the two of you?

Mr. DUPRE. No, we were with a group; his father was with us.

Senator EAGLETON. Joe, Sr., and other people. We don't need to name them. How many people, half a dozen?

Mr. DUPRE. I would say half a dozen people.

Senator EAGLETON. What do you call Joe on a hunting trip? Do you call him Joe?

Mr. DUPRE. Joe, Jr.?

Senator EAGLETON. Yes.

Mr. DUPRE. Yes, I call him Joe.

Senator EAGLETON. What does he call you?

Mr. DUPRE. I guess he calls me Coty.

Senator EAGLETON. Does he know how to spell your name?

Mr. DUPRE. I really don't know.

Senator EAGLETON. He doesn't know how to spell your name, under oath. Thirty-one years, top man at Anchor and Canal, under oath, Joe Wright doesn't know how to spell your first name. Aren't you shocked?

Mr. DUPRE. Well, there are a lot of people that have problems with——

Senator EAGLETON. Spelling.

Mr. DUPRE. [continuing]. Coty properly.

Senator EAGLETON. Thirty-one years and he can't even spell your name; either flagrant perjury, which I deem it to be, or gross insult to you, the most faithful functionary his father has had with his two oil companies, can't even spell your name, one or the other.

That is all I have, Mr. Chairman.

Chairman Roth. That is all the questions of you, Mr. Dupre. Thank you.

[A letter dated Oct. 11, 1982, from Mr. Dupre to Rayburn Hanzlik follows:]

Anchor Gasoline Corporation

114 EAST FIFTH STREET
TULSA, OKLAHOMA 74103

October 11, 1982

Mr. Rayburn Hanzlik
Administrator
Economic Regulatory Administration
Department of Energy
Washington, D.C. 20461

Dear Mr. Hanzlik:

Thank you for spending some time with me during the recent APRA meeting in Washington.

During our discussion, I mentioned that we will be meeting with your Mr. David H. Jackson in Kansas City later this month, on or about October 18.

Attached is our letter dated September 30, 1982, consisting of four pages, and summary of the information consisting of nine pages, which we forwarded to Mr. Jackson last week and we are certainly hopeful that the matter of this settlement can be resolved soon.

Yours very truly,

Coty R. Dupre
Vice President

CRD:jwr

Enclosures

Chairman **Roth**. The committee will recess until tomorrow morning at 9:30. It has been agreed by the ranking member of the minority and myself that at that time, there will be the three additional witnesses that have been listed plus Mr. Wright, and that the hearings will be completed tomorrow.

Mr. Dupre, you are dismissed.

Mr. **Dupre**. Thank you.

Chairman **Roth**. The committee is in recess.

[Whereupon, at 7 p.m., the committee recessed to reconvene November 6 at 9:30 a.m.]

MATTERS RELATING TO JOSEPH R. WRIGHT, JR., DEPUTY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

WEDNESDAY, NOVEMBER 6, 1985

U.S. Senate,
Committee on Governmental Affairs,
Washington, DC.

The committee met, pursuant to notice, at 9:37 a.m., in room SD-342, Dirksen Senate Office Building, Hon. William V. Roth, Jr. (chairman of the committee) presiding.

Present: Senators Roth, Cohen, Rudman, Cochran, Eagleton, and Levin.

OPENING STATEMENT OF CHAIRMAN ROTH

Chairman Roth. The committee will please be in order.

As I stated last night, there will be four witnesses before the committee today. Senator Eagleton and I have agreed that we will complete these hearings today. We have considerable work ahead of us. I think that it is important that we expedite the hearings by every means possible.

I think it is only fair to point out that what we are here for is to hear the evidence of the witnesses before us. While we have leaned over backward to permit every Senator to ask his line of questioning in the manner that he thinks appropriate, I should underscore that the opinions and conclusions of the Senators, whether Republicans or Democrats, are only opinion and not evidence.

This is not a court of law, and we are, of course, not restricted by the rules of evidence. At the same time, I think it is particularly important to understand that the only matters which relate to the case at hand are what the witnesses have to say.

Now, I would hope, in the interest of expediting the hearings, that Senators would restrict their observations and limit the time that is available to them. We have been, I think, generous in providing time to ask questions of the witnesses.

I would also hope that those who intend to participate would be here during the proceedings because I don't think that it is fair to those of us who are staying throughout these hearings to have others pop in and out and ask repetitive questions.

I realize that on some occasions, it is impossible not to be called out, but I would ask the minority, as well as the majority side, that if they can't be here, they check with staff to try to determine what areas have been covered so that we can reduce the amount of repetition.

Finally, I want to say that I think that it is critically important that every witness have the opportunity to fully answer the questions propounded to him. I think that it is important that the Senator asking the question grant that right in fairness to the witness. I can tell the panel that the Chair intends to insist upon that opportunity.

If any witness feels he does not have an opportunity to answer the question, he may raise that question for a ruling by the Chair, and I intend to protect that right. I do want to say, at the same time, that we, of course, expect expeditious answers on the part of the witnesses.

Unless there is some other comment by other Senators on the panel, we will call the first witness, Mr. Avrom Landesman.

Mr. Landesman, will you please remain standing and raise your right hand.

Do you swear the testimony you will give this committee will be the truth, the whole truth, and nothing but the truth, so help you God.

Mr. LANDESMAN. I do.

Chairman ROTH. Please be seated.

TESTIMONY OF AVROM LANDESMAN, ENFORCEMENT DIVISION, DEPARTMENT OF ENERGY

Chairman ROTH. Mr. Landesman, we understand that you are now Director of the Office of Enforcement at ERA. Would you please explain your background in Government, how long you have worked for the Government, are you a civil servant, a political appointee, or whatever other background you think appropriate?

Mr. LANDESMAN. I am a career civil servant. I am an attorney. I have been with the Federal Government since January 1962. I worked for 6 years at the Federal Trade Commission, for 6 years at the Department of Commerce, and the remainder of my 23-year career at the Department of Energy.

Chairman ROTH. Are you also a Rabbi?

Mr. LANDESMAN. Yes.

Chairman ROTH. Mr. Landesman, did you attend a meeting on October 22, 1982, with representatives of Anchor Gasoline Corp?

Mr. LANDESMAN. Yes, sir, I did.

Chairman ROTH. We understand that Anchor was a minor or a small oil company. In 1982, was it unusual for you to meet with representatives of minor companies?

Mr. LANDESMAN. Somewhat unusual because this particular kind of case was normally the responsibility of others.

Chairman ROTH. Why did you attend this particular meeting?

Mr. LANDESMAN. I and the special counsel, Milton Lorenz, were asked to attend this particular meeting in Mr. Hanzlik's office at his request.

Chairman ROTH. Who was present at this meeting?

Mr. LANDESMAN. Present at that meeting were Mr. Hanzlik, the special counsel, Mr. Lorenz, myself, Mr. Dupre, and Mr. Dunagan.

Chairman ROTH. Would you please tell us what happened at that particular meeting?

Mr. LANDESMAN. The representatives of Anchor explained that they had been subject to an extensive audit done by our field offices, first by the Tulsa office and later by the Kansas City office. That there were outstanding allegations of overcharge against it. That they had tried to reconcile their differences with the Kansas City office, but that there were circumstances, that they felt required national office intervention. They felt that there was an unusually large amount of allegation against it, and that it was very harmful to the company's financial viability. There was a downturn in the profitability of small refiner business in 1982, which was generally known to be the case, that there were Environmental Protection Agency requirements that were now being imposed upon even small refiners that would entail major expenditures of funds to comply with. The totality of all of those circumstances made it imperative that the company attempt quickly to settle its differences with the DOE on a basis that they could afford, that they could handle and still remain in business.

Senator EAGLETON. Mr. Chairman, I would like to raise a procedural point at this time. Mr. Landesman is reading prepared answers to your prepared questions. So my question to the Chair is, has the majority seen the prepared answers in advance, as they have not been supplied to us. Has Mr. Landesman been supplied with the question?

He is reading verbatim from a script. It was the understanding of the committee that if there are to be prepared statements, they were to be furnished in advance.

Chairman ROTH. Mr. Landesman, would you care to answer?

Mr. LANDESMAN. Mr. Chairman, I am not reading from anything. I am merely looking at a chronology that is in front of me, which the committee has. Not one single word of what I said was read from a script. I apologize if my eloquence appears to be——[Laughter.]

Senator EAGLETON. It is not your eloquence, Mr. Landesman, it is your eyes. Your eyes are on the script.

Mr. LANDESMAN. I will be happy to look up.

Chairman ROTH. Mr. Landesman, did anyone mention Joseph Wright, Jr.'s name, his title, or OMB, as having an interest in this case, either directly or indirectly?

Mr. LANDESMAN. No, sir.

Chairman ROTH. Were you aware of any effort, of any improper effort to directly or indirectly influence this case?

Mr. LANDESMAN. No, sir; moreover, I did not know, at the time of the October 22, 1982, meeting, either that the Wright family had any interest in the Anchor Co. or in the Canal Co. I did not know that Mr. Wright had made the phone call in September that was alluded to yesterday. None of that was discussed either at the meeting or in preparation for the meeting, or subsequent to the meeting.

Chairman ROTH. Did you attend another meeting on November 10, 1982, with representatives of Anchor?

Mr. LANDESMAN. Yes, sir; I did.

Chairman ROTH. Who was present at that meeting?

Mr. LANDESMAN. As best as I can recollect, present at that meeting were the special counsel, Milton Lorenz, myself, Mr. Dupre, and Mr. Dunagan. I do not recall the presence of the fifth person that Mr. Dupre referred to yesterday, but it is entirely possible that he was there and I just don't remember.

Chairman ROTH. What happened at this meeting?

Mr. LANDESMAN. You are referring to the November meeting.

Chairman ROTH. That is correct.

Mr. LANDESMAN. At the November meeting, some technical subjects were discussed about the audit that was conducted and the PRO that had been issued, the proposed remedial order, in 1982 by the Kansas City office.

There was a discussion of various things that would need to be studied for the DOE personnel to determine whether there was give in the chargers, whether some errors may have been made or whether there were some credits that the company was entitled to, which it either had not claimed or that it was not given credit for in the computations of compliance that were made by our field staff.

In other words, there was a discussion of a good deal of work that would have to be set into motion for us to be able to handle the case in the manner in which we settle cases in Washington.

Chairman ROTH. At this meeting, was there any mention of Mr. Joseph Wright, Jr., his phone call to Mr. Hanzlik, or of high OMB or administration interest in the case?

Mr. LANDESMAN. No, sir.

Chairman ROTH. Was there any improper influence of any type evidenced at this particular meeting?

Mr. LANDESMAN. No, sir.

Chairman ROTH. Did you attend another meeting on Anchor or Canal?

Mr. LANDESMAN. I don't recall whether I ever did or not.

Chairman ROTH. When did you actually learn of the phone call between Mr. Wright and Mr. Hanzlik?

Mr. LANDESMAN. I learned it in March 1985.

Chairman ROTH. In March of what year?

Mr. LANDESMAN. Of 1985.

Chairman ROTH. And these meetings were when?

Mr. LANDESMAN. In 1982.

Chairman ROTH. You had no knowledge at that time.

Mr. LANDESMAN. No, sir.

Chairman ROTH. When did you first know that Mr. Wright was associated with Anchor and Canal?

Mr. LANDESMAN. In the fall of 1984, I learned but I do not recall the source, but I learned that the Wright family had an interest in Anchor.

Chairman ROTH. Did you ever talk to Dunagan and Dupre about Anchor and Canal besides the few meetings in 1982?

Mr. LANDESMAN. I believe I did speak with Mr. Dunagan on some occasions during the intervening period.

Chairman ROTH. If so, did you ever talk with him about Joe Wright, Jr.'s interest in the company?

Mr. LANDESMAN. No; the only time I recall speaking to Mr. Dunagan about this matter was subsequent to the revelations thereof by the Wall Street Journal, I think, in the spring of 1985.

Chairman ROTH. Mr. Landesman, did anyone ever tell you that the Anchor pricing case, or the *Canal* entitlement case, should be handled in a special way because of Joseph Wright, or high governmental interest, or for any other extraneous reason?

Mr. LANDESMAN. No; not for those reasons. There was a special reason to handle the *Canal* case in an unusual way, but that wasn't for reasons of possible impropriety nor for reasons having to do with the ownership of the company by the Wrights, nor because of Mr. Wright, Jr.'s position in the Office of Management and Budget.

Chairman ROTH. When was the first PRO issued to Anchor?

Mr. LANDESMAN. In September 1982.

Chairman ROTH. I am sorry, I didn't hear you.

Mr. LANDESMAN. In September 1982.

Chairman ROTH. When was the second PRO issued?

Mr. LANDESMAN. January 1985.

Chairman ROTH. Were the two similar?

Mr. LANDESMAN. Fairly similar, yes.

Chairman ROTH. How were they different?

Mr. LANDESMAN. There was remedial language in the second one that was different from the first one. I will say, the last five or six pages of the 1985 proposed remedial order were changed, but this is largely boilerplate material.

Chairman ROTH. It is largely what?

Mr. LANDESMAN. Boilerplate, that is, it is not material written uniquely for any particular case. But in the intervening 2½ or so years, some standard language was put at the end of a proposed remedial order dealing with what the company should be made to do by way of restitution had been altered for everybody, and that was changed also for this PRO that was issued by the Dallas office in early January 1985.

Chairman ROTH. You stated a few minutes ago that in no way was either the Anchor pricing case or the *Canal* entitlement case handled in a special way because of Joseph Wright or high governmental interest, or any other extraneous reason.

You also started, If I understood you correctly, that Canal was handled differently for another reason. Would you please explain what those circumstances were?

Mr. LANDESMAN. They were unique circumstances, the issue of the Canal proposed remedial order.

I think the committee would benefit here from a somewhat more lengthy answer than you asked everybody to give. The problem with Canal's compliance was not, as was stated yesterday, a routine entitlement violation. It was not a routine case. My good friend Bill Lynch is in error in thinking that it was.

There were people who considered it to be a routine entitlement case, but it was not. In fact, what it involved was a problem, a very serious enforcement problem for the Government because in the last couple of years of the control of crude oil a lot of oil companies, including major refiners, sought to alter the tier of oil that they refined, which was subject to an entitlement obligation. That means, they had to share the benefits of their low cost oil with companies who were refining high cost oil. Instead of using the oil that they acquired for purposes of refining, which may have been low cost oil and was low-tiered, and was ceiling priced, they entered into a number of very curious transactions involving sometimes millions and millions of barrels of oil over a couple of years period, often with the intervention of third parties, and sometimes third and fourth parties.

The results of those transactions were——

Chairman ROTH. Would you bring the microphone a little closer. I would ask the staff to try to keep their voices down so we can hear the testimony.

Mr. LANDESMAN. The results of those transactions were that the companies got back oil of a different tier than what they started out with. They relieved themselves of their entitlement obligations, and sent into the marketplace huge quantities of oil which were in fact later traded on a black market basis.

We were aware of this problem beginning in 1983 and in 1984, and when the *Canal* case came up, and the facts showed that it involved this familiar pattern, which was then the subject of extensive inquiry, including some grand jury investigations, and policy problems that we had to wrestle with, and legal problems that we had to learn to apply the regulations to——

Chairman ROTH. Could I interject? Are you talking about the so-called daisychain factor?

Mr. LANDESMAN. I am not.

Chairman ROTH. You are not.

Mr. LANDESMAN. No. I am talking about what is called tier trading. I am talking about what ultimately became known as the Cities Service problem, which I think the chairman alluded to yesterday, which has now been the subject of a few enforcement actions that we have issued. One in March 1985 against Cities for $509 million, nd one more recently against ARCO for $499 million. The *Canal* case involves similar and very closely identical kind of problems.

Since we had not, before 1985, finalized the way we would handle these cases, it was important that we not precipitously issue a PRO, particularly against a small company, that would have taken away some options in pleading that we needed to have while we were still studying all the facts and ramifications of the major refiner work that we were doing and still are doing.

For that reason, when I asked that Gloria Sulton be assigned to work on the *Canal* case, I did so in part because she was responsible for doing the *Cities* case. I also directed her to please do the *Cities* case first, and not to draft the Canal PRO until she was finished with the Cities case and until it was issued and had met the satisfaction of all the senior lawyers and policymakers at the ERA.

It was not unusual, that is the handling of Canal was not unusual, in any other respect. The suspicions or allegations that have been made and were made yesterday, including by people who work for me, that the Canal case was held up in a very unusual way for no apparent reason, for no explicable reason, and that there had to be some extraneous or sinister or onerous motive behind it, is simply not correct.

I believe that has been said by people not familiar with this subject, or not familiar with the facts.

Chairman **Roth**. That is a very important statement, Mr. Landesman. You are under oath, as you understand.

Mr. **Landesman**. Yes.

Chairman **Roth**. Would you again state what your position of responsibility was at this time?

Mr. **Landesman**. In the period that you are examining, which starts in September 1982 until the present, I have held two positions. In the earlier period, I was the deputy special counsel, which means I was the second highest enforcement official with responsibility in assisting Mr. Lorenz to bring cases, to settle cases where appropriate, and to enter into consent orders. Beginning in January 1985, the special counsel's office was subdivided. The special counsel now became in charge of settlements of all kinds, and I became in charge of bringing, developing new cases, issuing them, signing them, and determining when they should issue.

The *Canal* case spans those two periods. But I did undertake some responsibility even while I was still deputy special counsel to worry myself about the *Canal* case, and I began to do so in 1984. The timing of the issuance of that case in April 1985 was my doing, and it was deliberately brought after the Cities case because it was, one, less important, and, two, it could have seriously injured the Cities, and the winnability of the *Cities* case if it had been pleaded the wrong way, or in fact if it had been pleaded the way it was drafted the first few times it was drafted.

The person who said yesterday that there was no difference between the final *Canal* case and the earlier *Canal* case is completely misinformed on the subject, and probably had not read it.

Chairman **Roth**. Mr. Landesman, you are an attorney.

Mr. **Landesman**. Yes.

Chairman **Roth**. And it was your considered view as an attorney that there were special issues in the case that made it worthwhile to hold up until you had time to further work an important case. That was the *Cities Services* case; is that correct?

Mr. **Landesman**. Yes, sir.

If I might just add one more thing, Mr. Chairman. What special about it in part is that Cities Service, in the matter that we have at dispute with them about in this $509 million case——

Chairman **Roth**. Would you give that figure again?

Mr. **Landesman**. It is $509 million. It was $509 million at the time it issued in March 1985. With the running of interest, it is somewhat higher now, but I do not know by how much.

Cities Service had sought an interpretation from the Department of Energy on these subjects in 1980. They also filed suit against the Department of Energy on this same subject in district court in Delaware in 1980. Both of those matters were resolved in an interconnected way, and an interpretation of sorts was issued to Cities Service. What that interpretation says and doesn't say, that is, the red-light language in it and the green-light language in it, and the yellow-light language in it is the subject of great dispute between the DOE and Cities Service. It is for that reason that anything said on that subject in the interim, pre-the bringing of the *Cities Service* case, would be carefully weighed by all lawyers representing companies because many, many companies, perhaps 10 or 20 major refiners, plus some smaller refiners, are all in the same boat in a large way or in a small way.

So the agency had to be extremely careful how it timed the bringing of cases, and precisely how it was pled. This was a matter that would be difficult not only for a nonlawyer to work on, but even most lawyers would not be really expert enough to handle a matter like this, except if they had very senior talent, understood the nuances of pleading, and knew this subject of crude oil trading and major refiner pricing very, very thoroughly.

That is why we put our best people on it, and before the *Cities Service* case was issued in March 1985, it itself had gone through several iterations of drafting and had been shown to the most senior lawyers in the Department of Energy, and they had been requested to study it thoroughly, which they did for many, many weeks. We finally got our minds together and decided how to plead the case.

For that reason, while that study was going on, it would have been extremely foolhardy and it would have been improper to have issued a smaller case coming from some other source merely because of the pressures of the entitlements people wanting to have another case, or because of the public relations pressures growing out of the *Anchor-Canal* controversy.

It is for that reason that we did our work, in an orderly way. I have been in the Government for a lot of years, and I have been through these kinds of things before. I want to assure you, Mr. Chairman, and members of the committee, the handling of the *Canal* case was perfectly proper.

Chairman ROTH. Again, you are a civil servant, and not a political appointee. Is that correct?

Mr. LANDESMAN. I am a civil servant, and I am very happy to be a civil servant. I aspire to no political ambition, and none, fortunately, has ever been offered.

Chairman ROTH. To continue, then, in March 1984, it was you who assigned Gloria Sulton, a lawyer, to handle the *Canal* entitlement case. It was you who instructed her to work on the *Cities* case before *Canal* because *Cities* was a much bigger case.

Mr. LANDESMAN. Yes, much bigger, much more important, and a lot more history behind it. It has to be the leading case, and nothing could be allowed to interfere with it. That is a decision, by the way, that anybody in my position, with my experience, and with elementary common sense, would have made. There were no two ways about it.

Chairman ROTH. You earlier alluded to a difference between the initial draft of the PRO and the *Canal* entitlement case, the one that was used and published in 1984. Would you explain that difference?

Mr. LANDESMAN. Yes, Mr. Chairman, I hope you will understand if I have to be somewhat ambiguous about that because, as you know, there are people in the room who might use what I say in their own defense in the *Canal* case. So I have to try to satisfy you in answering your question but without arming our adversaries with ammunition that they could use against the case in proper.

The *Canal* case was originally viewed as a company that should have pruchased a certain amount of entitlement obligations and failed to do so. That is not, as it turns out, what the reality of the case was about.

What the company really did, as we now know it, was that they sold off, or purported to sell off, *x* amount of oil in a business transaction that didn't have any business purpose other than to circumvent the regulations. They got back the same amount of oil.

There was an understanding when they sold it that they would get it back from a certain party. They sold it on condition, although ostensibly at the correct price. There was an understanding that they would get something back for it in addition to the nominal price that it was sold.

The ramifications of that go way beyond just the failure to purchase the correct amount of entitlements. It is not a classic entitlements case. It is charged in part as an entitlements case, but essentially it is an evasion of all the regulations that applied in the handling of crude oil by a refiner.

Chairman ROTH. Mr. Landesman, I believe you were here yesterday.

Mr. LANDESMAN. I was, all day.

Chairman ROTH. Did you hear the testimony of Dave Jackson?

Mr. LANDESMAN. Yes, I did.

Chairman ROTH. Did you hear him state that he may have been told by you, I think between November 1982 and May 1983, at a meeting in Washington, that there was high Government influence involved in this case?

Mr. LANDESMAN. I heard him say it yesterday, and I have heard him say it many times before. All the times he has said it, he has been wrong. He never heard any such thing from me because I didn't know any such thing. I didn't know of Joe Wright——

Senator EAGLETON. Mr. Landesman——

Chairman ROTH. Let the witness answer the question.

Mr. LANDESMAN. I am only speaking——

Senator EAGLETON. He said that possibly Lorenz or possibly Hanzlik who was coming in and out of the office.

Mr. LANDESMAN. I understand the Senator's point. I am merely speaking about whether I personnally ever said this to Dave Jackson. All I can tell you is, I never said it to him. He couldn't have heard it from me because I knew of no such thing. I didn't know about that until 1984—late in 1984 and 1985.

Moreover, I did not say it to Mr. Bob Wehrle-Einhorn either. I find it incredible that either of them would have a memory of any such thing because in all the times that I spoke to either of them, or both of them, about the *Anchor* case, which was a considerable number of times, especially about the publication in the Federal Register notice of the issuance of the PRO in September 1982, in none of those conversations did either of them ever ask me about who that high Government official is. They never said anything about there being a high Government official. I find it totally incredible that people who work for me, and with whom we had so close a relationship, and with whom I met for frequently, would not have ever mentioned a matter for such enormous importance and of such an unusual character in all the times we spoke.

I find it incredible that they would not have spoken especially to me about it, and I find it even more especially incredible that they didn't speak about it if I was supposedly the source of that information in the first place.

It is absolutely not true, whether it be Mr. Jackson or whoever else says it, that I ever mentioned any such thing. They are totally in error.

Chairman ROTH. If I understood your testimony, you said that Mr. Jackson has made this accusation before yesterday, is that correct?

Mr. LANDESMAN. He has told me so personally on the telephone. But the first time he ever began to mention it started in 1985. I think that he has a recollection of something, but I think that he has it mixed up. Certainly, if I am part of his recollection, he is totally mixed up, because it can't possibly be true because since I knew of no such information, I couldn't possibly have told it to him.

Chairman ROTH. Did he ever earlier use your name in connection with this allegation, to your knowledge?

Mr. LANDESMAN. He did earlier use it in interviews with people, I believe that in some discussions or testimony that he had with other congressional committees, or with the Inspector General's Office. But he has told me openly that it is his recollection, and I have told him openly that he is in error.

I am not mad at him for being in error, but he is just simply very much in error. I am a little bit mad at him for being in error. [Laughter.]

Chairman ROTH. Do you know what caused the delay in the *Anchor* case, and why that PRO has not been published?

Mr. LANDESMAN. I know a lot about it, but I don't know everything there is to know about it. I believe that this committee is going to have to hear from a number of people before it can understand at all.

I will tell you, from my perspective, including what I know for sure and what I just know because I heard it around, or because I have excellent intuition.

There were a lot of things that happened that contributed to the long delay in the *Anchor* case. First, this audit of this matter happened to be a very complicated matter. Although it is a very small company, when it is compared to major refiners, the problems are exactly the same. They are extremely complicated. The numbers are just smaller, but it would be just the same as doing an Exxon investigation.

The Department of Energy found, to its chagrin, after many years that it could never do a comprehensive investigation of a major refiner with just a few people. The Special Counsel's Office was established in late 1977, after the Sporkin report was issued. It put several hundred people, plus hundreds of outside contractors, onto what was then 20 major audits done at the time.

The *Anchor* case never was afforded that kind of resources because they simply were not available. So Anchor case was done by a couple here and there, originaly in the Tulsa office. It was not done with the comprehensiveness needed to ultimately establish very, very pure facts. That is one thing.

Second, the Tulsa office started the case, but then the case was transferred to Kansas City in 1978 or 1979. So that the office that actually issued the case was not the office that did the audit.

Third, I don't really think, as it turns out, that the way the company kept its records and filed its forms preserved a clear documentary trail as to where all of the information, numbers, and costs came from, and they are very, very hard to recreate.

Next, the Kansas City office began to negotiate in September 1982 with the company in an effort to resolve the matter. That didn't go very well. As you now know, Mr. Dupre or Mr. Dunagan offered $50,000 on the matter that the Kansas City office felt was in the millions. That was undoubtedly considered to be a laughable offer, an insulting offer, one not taking seriously the charges against the company.

In sort of retaliation, the Kanasa City office threatened to and did publish a proposed remedial order. But the proposed remedial order that they published was clearly exaggerated in terms of their own understanding of what the liabilities of the company were. That is evident from the fact that not a couple of weeks afer publishing the PRO, they offered to settle the $16 milion case for $2 million.

If they offered $2 million, anyone who knew how the Kansas City negotiated would know that they probably had in mind to settle it for $1 million or something thereabouts.

That is a good bluff if is works, but it is a bad bluff if it doesn't work, and it didn't work.

When those people came to Washington and enlisted the support of senior people in an effort to resolve their matter, we simply couldn't handle the case the way we normally do because we couldn't find out what was really going on. We were astounded that an office would issue a case for $16 million, supposedly the product of their most recent research, and then within 2 weeks turn around and offer to settle the case for $2 million.

On the other hand, if the company's contention was, as it was, that there were serious financial problems which we needed to take into account, if they were to settle on a hardship basis, we couldn't see the hardship either. They could not sustain it.

We, therefore, had to start recreating that case from scratch, trying to understand ourselves the complex issues, the many, many issues of the case that we knew nothing about, and had trouble finding people who did know something about them.

The committee also needs to understand that about that time, the Kansas City office was winding down its operations. It was losing its resources of talented auditors who were familiar with refinery pricing, with natural gas liquids, with unleaded gasoline, with all of the complex problems that were involved.

In an effort to try to make sense of the case, the special counsel enlisted the support of Mr. Crowell, who testified yesterday, people who worked for him, in coordination with Bob Wherle-Einhorn, not an auditor, but a very experienced senior and talented attorney, experienced in this field.

How those two worked together is something I am not familiar with, except to say that they didn't work very well together. There were always problems about who gave who information, and where it came from, et cetera.

The case bogged down in part because it wasn't done right in the first place. It was not a thorough piece of work. The fact that it then became the responsibility of a Washington group, a Kansas City group, and a Dallas group, all in coordination with each other, did not turn out to be a very efficient or effective way of getting to the bottom of it.

It is for that reason that the case took very, very long. Unfortunately, I must say that it is not the only instance where this has happened. There are still cases that we have that are very difficult to solve because of the inadequacies to work, lack of thoroughness or mistakes that were make way back. They are extremely difficult to recreate, and it is especially difficult to make a decision to devote a lot of time to it when there are much, much more serious enforcement problems on the table.

However, it does not make us look good. We are not proud of what happened with the *Anchor* case, but when we did learn the problems, and when this whole thing blew up, especially the integrity aspect of it blew up, we had a choice to go for some cheap shot against the company, or to try to do it thoroughly, and not harm them merely because there were these allegations. Not to make ourselves look good at their expense, we decided to take the latter course, and we are still at this time attempting to recreate this case in a thorough and professionally adequate way.

Chairman ROTH. Is there any statute of limitations with respect to these cases?

Mr. LANDESMAN. No, sir.

Chairman ROTH. So that you were able to delay without risking the termination of the claims.

Mr. LANDESMAN. That is correct.

Chairman ROTH. Mr. Landesman, are you familiar with the *Marion* and *Dorchester* cases?

Mr. LANDESMAN. Yes, sir.

Chairman ROTH. Were there cases similar to *Canal*?

Mr. LANDESMAN. Similar but different.

Chairman ROTH. Would you explain your answer?

Mr. LANDESMAN. The *Marion* case is one that I am more familiar with than I am with Dorchester, which is a very, very complicated case.

I assume you are getting to the point of wondering why *Marion* sailed through a lot faster than *Anchor* did. If I could be so presumptious as to guess what your followup question is, I would like to explain it on that basis.

Senator EAGLETON. You don't have to be presumptious, you have been told, haven't you? You have been told in advance to give us this dog and pony show on the *Marion* and *Dorchester* cases.

Mr. LANDESMAN. No, Senator, I have not been told.

Senator EAGLETON. You have never heard those words until today.

Mr. LANDESMAN. I heard the "dog and pony show."

Senator EAGLETON. *Marion* and *Dorchester*, you didn't hear it from any member of the majority staff?

Mr. LANDESMAN. I heard questions about it yesterday, which is what led me into my intuition.

Senator EAGLETON. Your intuition.

Mr. LANDESMAN. I was not asked to put on a show today, Senator, and I would hope that you would not think that I am. I am here to try to clarify facts, and that is the basis I am here for. I am sure you don't mean to insinuate to the contrary.

Marion was a case where a company started out with a certain kind of oil, pretended to change that oil into other oil, but in fact didn't. It was a paper transaction. That is a simple issue of evasion. It didn't involve the tier trading with other parties, getting back a different kind of oil at a discount that I described in connection with Canal.

It is similar because the business end is the same, but the manner of doing it makes it much easier to prosecute. Second, the Marion Corp. went into bankruptcy, and if the Department of Energy were not to issue a proposed remedial order, it would not be able to sustain its claim as a creditor and would get no money.

For that reason, one because it was a clearer violation, the evasion was solidly provable and, two, because of the pressures of bankruptcy, because at worst it would be tried in bankruptcy court and not elsewhere, we took the risk in Marion that we would not take in Canal of issuing it before Cities.

Chairman ROTH. Senator Eagleton.

Senator EAGLETON. Thank you, Mr. Chairman.

Mr. Chairman, you have been questioning Mr. Landesman, on an uninterrupted basis, and I think that is proper, for 50 minutes, to lay out your version of the case. I thereby request that I have 50 minutes of uninterrupted time to cross-examine so as to rebut the presentation made by Mr. Landesman. It will also adduce new evidence, which I think will be relevant for Senator Rudman then to comment on, and Senator Cohen, and Senator Cochran, in order.

I cannot in 10 minutes get into even a preliminary cross-examination of Mr. Landesman. I think that it is proper that you lay out your version of the case for 50 minutes, and I encouraged you to do so yesterday. I request that I be given 50 minutes uninterrupted to cross-examine Mr. Landesman.

Senator RUDMAN. Mr. Chairman.

Chairman ROTH. Senator Rudman.

Senator RUDMAN. Mr. Chairman, I think that the Senator from Missouri obviously ought to be given more than the normal opening, but I am not sure of the 50 minutes.

I would say that I am not sure the chairman introduced his version of the case. We have heard from one of the best witnesses I have ever heard just lay out what happened. The chairman wasn't testifying, Mr. Landesman was testifying.

Senator EAGLETON. This is a witness you like, and I don't think that you will like him as much when I am finished with him.

Chairman ROTH. Let me start out——

Senator EAGLETON. I need time.

Chairman ROTH. Let me start out, Senator.

Senator EAGLETON. Senator Rudman knows, he is a very able prosecutor, a former attorney general of New Hampshire, cross-examination evolves. When you come out with a 10-minute clip——

Senator RUDMAN. I didn't suggest that.

Chairman ROTH. As a matter of fact, it was the Senator from Missouri who proposed——

Senator EAGLETON. Mr. Chairman, I suggested it so that you could have continuity.

Chairman ROTH. Let me——

Senator EAGLETON. I am requesting that you give me equal time.

Chairman ROTH. Let me start out by saying that, No. 1, the ranking member did not request it on that basis yesterday.

Senator EAGLETON. I am doing it today.

Chairman ROTH. That is a matter of record, you proposed——

Senator EAGLETON. I suggested it to make it easier——

Chairman ROTH. If I may finish my remarks.

Senator EAGLETON. You said that you wanted to move quickly, and you took 50 minutes of direct examination of Mr. Landesman. I need time to cross-examine him.

Chairman ROTH. Senator, yesterday, we gave you extensive time——

Senator EAGLETON. On a 10-minute basis, it was good enough for yesterday.

I am going to be cross-examining, from my point of view, an adverse witness. I don't think that he is telling the truth, and I need time to cross-examine him.

Chairman ROTH. Let me start out by saying that as far as I am concerned, the purpose of these hearings is not that of an advocate on either side. What the chairman is interested in is fairness and bringing out the facts, whatever they may be, whether they are on the favorable side——

Senator EAGLETON. I also want that, but I need time.

Chairman ROTH. I will finish my statement and then you will have your opportunity.

As I said, my intent is to have the facts brought out and to be fair to all Senators, including the distinguished Senator from Missouri. Yesterday, we enabled him to examine at great length several witnesses, and we interposed no objection as to the kind of questions. In many cases, 10 minutes were used in which, if the witness had the opportunity to testify for 1 minute out of those 10 minutes, I would be surprised.

I do intend that the distinguished Senator from Missouri have the opportunity to ask whatever questions of Mr. Landesman, but I also feel that Senator Rudman, and Senator Cohen, and Senator Cochran should have the opportunity.

We started out with a 15-minute rule. In the interest of fairness, I will extend that to 25 minutes at this stage to the Senator from Missouri.

Senator EAGLETON. Thank you, Mr. Chairman.

Senator COHEN. Mr. Chairman, before you proceed, could I say a couple of words?

I resent what is taking place here. My colleague said that it was the Oxbow Incident, but I think that it was "Alice in Wonderland" where the queen said, "Verdict now, trial later." It seems to me that we have proceeded here under the assumption that somehow these people are presumed to be guilty, and anyone who is interested in getting a fair hearing on the matter is trying to take part in that particular conspiracy. I resent it. I think that it is unfortunate. I have never seen it take place before this committee ever. I don't know frankly what is going on.

Chairman ROTH. Let's try to get back on course. Again, I think the purpose of these hearings is to establish what the facts are. I would hope that that is true of all the Senators on both sides of the aisle. With that, let's start, and give the distinguished Senator from Missouri 25 minutes.

Senator EAGLETON. Thank you, Mr. Chairman.

We will proceed first with Canal, Mr. Landesman. The *Canal* case is an entitlement case; correct?

MR. LANDESMAN. In part.

Senator EAGLETON. In substantial part.

MR. LANDESMAN. It is an entitlement case in part that the effort of Canal—its intention in engaging in certain business transactions was to avoid an entitlement obligation, but that is not all that is involved.

Senator EAGLETON. Would it be a major part of the case? Around the office, would it be referred to commonly under the generic term of an entitlement case?

MR. LANDESMAN. It started as an entitlement case. It was classified as an entitlement case.

Senator EAGLETON. It was classified as an entitlement case.

MR. LANDESMAN. When we learned more about it, it turned out to involve more than an entitlement case.

Senator EAGLETON. We are going to learn more about it.

Now, in January 1981, a notice of potential audit was sent to Canal. In February 1981—this comes from the record—the Kansas City office begins the audit of Canal. In February 1982, the first draft of the PRO on entitlements violation is prepared. In September 1982, the second draft of the PRO of the entitlements violation was prepared. In October 1983, the third draft was prepared. In November 1982, the fourth draft was prepared. In December 1982, the fifth draft was prepared. In January 1983, the sixth draft, quote, "was given final concurrence by DOE lawyers," is prepared, and the final concurrence is entered.

Then in February, an ERA lawyer gives copy of PRO draft to Dunagan. A copy of the draft is given to the other side. Then in August 1984, the seventh draft of the PRO on entitlements is prepared. Then in March 1985, the eighth draft is prepared. In April 1985, the ninth draft is prepared. Then on April 18, 1985, the formal $23 million PRO is issued in the *Canal* case. That is the record. That is from the official records of the Department of Energy.

Here you have a case basically classified as an entitlements case. Landesman says that it is more complicated than that, but it is classified as an entitlements case. Starting in 1981, going through nine drafts, and finally it is issued on April 18, 1985, and you are the issuing party by that time, aren't you Mr. Landesman?

MR. LANDESMAN. Yes, Senator.

Senator EAGLETON. Is that correct?

MR. LANDESMAN. Yes, Senator.

Senator EAGLETON. Now, are entitlements cases your specialty? Is that really your big expertise, or was it throughout your career at the ERA shop?

MR. LANDESMAN. No.

Senator EAGLETON. You are not an entitlements expert. In fact, didn't you tell Bobbie Kammerman, "entitlements are not my specialty. So while I may have discussed the case with Lorenz and Sultan, and possibly Hanzlik, I would not have discussed its substance."

MR. LANDESMAN. I don't recall anymore what it is I told her.

Senator EAGLETON. Nobody seems to be able to recall what they told Ms. Kammerman. Ms. Kammerman has been the best investigator on this case.

Chairman ROTH. If I might just intrude for 1 minute, Senator Eagleton.

Senator EAGLETON. Ferko can't remember what she told Ms. Kammerman.

Chairman ROTH. I am going to insert that the witness have full opportunity to answer the questions.

Senator EAGLETON. He said that he can't remember what he told Ms. Kammerman.

Mr. LANDESMAN. Senator, I didn't finish my answer. I am sure you are sorry for having interrupted me.

To the extent that I may have told her that I was not an entitlements expert, I did not mean that I was totally unfamiliar with it, or even mostly unfamiliar with it. But in the division of authority in 1982 and 1983 and in 1984 in the Office of Special Counsel, I particularly devoted myself to crude oil matters, and others devoted themselves to entitlement matters. I was only less expert in it by office standards, not by general standards.

Senator EAGLETON. Whatever that means, the answer speaks for itself. Entitlements weren't your bag. You were a crude oil guy. Now you are into entitlements, and you have given long answers to Senator Roth about cases up on appeal. The *Dorchester* case, the *Marion* case, they went up despite the pendency of Cities Service, and Canal doesn't. But, of course, *Dorchester* was different and *Marion* was different.

I will give you my learned expertise in a field in which I have not been operating only until very recently when I issued the *Canal* case on April 18, 1985. Did you know on April 18, 1985, that the inspector general was investigating the handling of entitlement cases and other kind of cases, including Canal and Anchor?

Mr. LANDESMAN. They were not doing so at that particular time.

Senator EAGLETON. Had you learned that the inspector general was investigating——

Mr. LANDESMAN. I knew that the inspector general was investigating a number of areas in our office, including the handling of Anchor, I don't know about Canal, and the publication of the Federal Register notice.

Senator EAGLETON. I have limited time, you can answer to these yes or no.

Did you know that the inspector general was investigating?

Chairman ROTH. Let me say that the witness is entitled to a reasonable amount of time to answer the question, and I do not think that he has abused that. Please let the witness answer your questions.

Senator **EAGLETON**. The answer was yes, Mr. Chairman, he knew the inspector general was out looking.

Chairman **ROTH**. I am going to insist that the witness have the opportunity to answer the questions without being intruded upon.

Senator **EAGLETON**. We will move on.

Did you know that the Wall Street Journal was snooping around on the *Anchor* and *Canal* cases on April 18, 1985?

Did you know investigative reporters from any journal, including the Wall Street Journal, were looking into those cases?

Mr. **LANDESMAN**. I believe the Wall Street Journal article had already appeared by then.

Senator **EAGLETON**. No; it appeared on May 7.

Mr. **LANDESMAN**. Then I am in error.

Senator **EAGLETON**. Did you know that the reporters were looking around?

Mr. **LANDESMAN**. Yes.

Senator **EAGLETON**. You knew.

Mr. **LANDESMAN**. Yes.

Senator **EAGLETON**. Had you been contacted by a reporter?

Mr. **LANDESMAN**. Yes.

Senator **EAGLETON**. When?

Mr. **LANDESMAN**. In March 1985, I believe.

Senator **EAGLETON**. Did you give an interview to the reporter?

Mr. **LANDESMAN**. A background interview.

Senator **EAGLETON**. A background interview.

Mr. **LANDESMAN**. Not for attribution.

Senator **EAGLETON**. What about, the *Canal* case?

Mr. **LANDESMAN**. At least about Anchor, I can't recall any more about Canal.

Senator **EAGLETON**. But by that time, in March 1985, Canal was under your direct jurisdiction. What was your title then?

Mr. **LANDESMAN**. Both of those cases were under my direct jurisdiction because I was director of Office and Enforcement Programs.

Senator **EAGLETON**. That was your fairly new title.

Mr. **LANDESMAN**. Since January 17.

Senator **EAGLETON**. Since January of this year.

Mr. **LANDESMAN**. Yes.

Senator **EAGLETON**. You had both Anchor and Canal.

Mr. **LANDESMAN**. Yes.

Senator **EAGLETON**. A Wall Street Journal reporter interviewed you, and you gave him background.

Mr. **LANDESMAN**. Yes.

Senator **EAGLETON**. The IG was looking into it, and you knew that.

Mr. **LANDESMAN**. Yes.

Senator **EAGLETON**. Curious, isn't it, that the *Canal* case went through this long history, from January 1981, through nine drafts and redrafts. The IG is looking into it, the Wall Street Journal is looking into it. Suddenly possums, you issue a PRO; right?

Mr. **LANDESMAN**. I am not sure I understand your question. Are you asking me whether I issued it, or whether it is curious that I issued it?

Senator **Eagleton**. On April 18, you issued it.

Mr. **Landesman**. Yes.

Senator **Eagleton**. Do you know Dick Green, and if you do, who is he?

Mr. **Landesman**. I know Dick Green. He is one of the senior administrative litigators for the Department of Energy.

Senator **Eagleton**. Does he work under you?

Mr. **Landesman**. No.

Senator **Eagleton**. Has he done any work on *Canal*?

Mr. **Landesman**. I am sorry, I don't know.

Senator **Eagleton**. We think he has.

Dianna Clark, who is she, and what does she do?

Mr. **Landesman**. She is one of the senior litigators in administrative litigation.

Senator **Eagleton**. Did she work on *Canal*?

Mr. **Landesman**. I don't know.

Senator **Eagleton**. She might have?

Mr. **Landesman**. She might have.

The *Canal* case is not in administrative litigation right now because of the peripheral court fight about some other things. So the case has not yet commenced in administrative litigation. So I don't know what role either of those would have in the case right at this moment.

Senator **Eagleton**. They might have had some role in it, though, it is conceivable.

Mr. **Landesman**. It is possible, sure.

Senator **Eagleton**. Who is Carl Corrallo.

Mr. **Landesman**. Carl Corrallo is the chief counsel for administrative litigation for ERA.

Senator **Eagleton**. Might he have done some work on *Canal*?

Mr. **Landesman**. He did, as a matter of fact.

Senator **Eagleton**. He did as a matter of fact.

Who is Anthony Miles?

Mr. **Landesman**. Anthony Miles is the deputy to Carl Corrallo in that administrative litigation section. All four people that you mentioned are in the same section.

Senator **Eagleton**. The administrative litigation section.

Mr. **Landesman**. Correct.

Senator **Eagleton**. When a PRO is issued, does the case go to them, to that section?

Mr. **Landesman**. No. It goes to them when the Federal Register notice is published, and then they assume responsibility if the company contests the issue of the PRO.

Senator **Eagleton**. In the case of *Canal*, we have identified that the PRO was issued on April 18, and the Federal Register notice was on May 2. That is from the record. So the Federal Register notice in the *Canal* case came in about 2 weeks after the PRO, the long delayed PRO.

Mr. **Landesman**. I don't have a memory of it.

Senator **Eagleton**. That is in the record, and it will speak for itself.

Senator **Eagleton**. Before the case for the Federal Register notice, is it not a fact that sometimes lawyers who are going to take over the case, meaning, Corrallo, Miles, maybe Green, or maybe Clark, get a little foreknowledge of the case before it is plunked on their desk.

Mr. LANDESMAN. That is correct.

Senator EAGLETON. It is a friendly office around there, isn't it?

Mr. LANDESMAN. Yes.

Senator EAGLETON. While you share their knowledge, and their knowledge of cases, one amongst the other.

Mr. LANDESMAN. They should.

Senator EAGLETON. In a collegial kind of attorney setting.

Mr. LANDESMAN. Most often.

Senator EAGLETON. We have this document, provided to us by the majority, and it was handed to our shared expert. It is part of the PRO, file in the *Canal* case, and in the last part of the document, on April 18, there is some correspondence signed by Mr. Landesman, et cetera.

We will have to make copies of one page, so I will move on while they make the copies. Anyway, it is a pretty thick document. You can identify it. As I said, there is some stuff in there from you, and there is one page that I want to question you about. I don't want to move on to Anchor until I have disposed of Canal.

Would you identify that document for us, for the record, Mr. Landesman, if you can?

Mr. LANDESMAN. You are referring to the big packet?

Senator EAGLETON. The big packet, and there is a page in the middle, and it has a clip on it.

Mr. LANDESMAN. The top of it appears to be communication from the Office of Hearings and Appeals to Canal's lawyer. Is that what you are referring to?

Senator EAGLETON. Yes, that whole document pertains to the *Canal* case, does it not?

Mr. LANDESMAN. Yes. Then there is a notice of objection, which they filed, contesting the PRO. Then there is a memorandum from Gloria Sulton to Carl Corrallo just notifying him that the case has been issued, and now he is going to become responsible for it.

Senator EAGLETON. Than there is a letter.

Mr. LANDESMAN. Then there is a letter by me to Coty Dupre informing him formally of the issuance of the PRO, and under it is the proposed remedial order itself.

Senator EAGLETON. In the middle of the document is that handwritten memo. Would you read the handwritten memo into the record?

Mr. LANDESMAN. Yes, there is a memo that says, "Dick/Dianna[1]——

Senator EAGLETON. Dick slash Dianna.

Mr. LANDESMAN. Yes, Dick slash Dianna. Here is the Canal Refining PRO for assignment. This is a combination of Cities and Dorchester. More Dorchester on the facts. Should get priority attention. there is press and congressional interest because of a call from OMB to Hanzlik at one point, sensitive. Please——

Senator EAGLETON. Underlined, exclamation point.

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[1] See p. 269.

Mr. **Landesman**. Underlined, exclamation point. Please have the attorney review a copy for public reading room placement a la Cities.

Senator **Eagleton**. It is undated.

Mr. **Landesman**. It is undated and it is unsigned.

Senator **Eagleton**. And unsigned. Do you recognize the handwriting?

Mr. **Landesman**. No, sir. It is not mine.

Senator **Eagleton**. It is not yours.

Mr. **Landesman**. No, it is not.

Senator **Eagleton**. Have you exchanged handwritten correspondence with Carl Corrallo?

Mr. **Landesman**. Many times, and this is not his handwriting either.

Senator **Eagleton**. What about Anthony Miles'?

Mr. **Landesman**. I am not familar with his handwriting, nor am I familiary with Dick's or Dianna's.

Senator **Eagleton**. But we did talk about them, and there is a Dick Green.

Mr. **Landesman**. There is a Dick Green and there is a Dianna Clark.

Senator **Eagleton**. Dick Green had done some work on the Canal case, and so had Dianna Clark.

Mr. **Landesman**. They appear to be the recipients of this memo, and not the authors.

Senator **Eagleton**. I see.

Mr. **Landesman**. I have never seen this document before this morning, by the way.

Senator **Eagleton**. You had never seen it.

In the guts of the document there is "press and congressional interest because of a call from OMB to Hanzlik at one point, sensitive," underlined, exclamation point.

What does that convey to you?

Mr. **Landesman**. I am pretty sure, knowing these people and the atmosphere in which they work, that what this means is as follows: There has been a big to do about Canal and Anchor. This is a case against Anchor. Whoever you are going to assign to it had better become familiar with it right away because there is going to be public concern about this case, and public inquiry. Let's not get caught not knowing what this case is about.

Senator **Eagleton**. Let's not get caught not knowing what this case is about.

Mr. **Landesman**. Or let's not be embarrased by unfamiliarity with it.

Senator **Eagleton**. How could you possibly be embarrased by unfamiliarity? You had been futzing around with this case over there since January 22, 1981, through nine redrafts—nine redrafts. There must be somebody there pretty familiar with it.

Mr. **Landesman**. Senator, you alluded to this problem earlier, and this what this memo is about. I really don't know for sure who wrote it, but it was obviously a person senior to Dick and Dianna, and the only two people in that section who are senior to them are Carl Corralo, whose handwriting this is none, and Tony Miles, whose handwriting I am not familiar with, so it may well have been Tony Miles.

It is the practice of some people in that section not to read proposed remedial ~~orders~~ until the objection has actually been filed, which means 4, 6, or longer, weeks after the issuance of the PRO. This memo is intended to convey, perhaps, not in the clearest or most artful and delicate way, whatever you guys normally do, see to it that whoever is assigned to this case gets to learn this right away because you are going to need to know it because people are going to be asking questions.

However, I, myself, have never seen this document before, but I don't see anything sinister in this document.

Senator EAGLETON. You don't?

Mr. LANDESMAN. No, I do not.

Senator EAGLETON. Congressional interest because of a call, it could be from Hanzlik.

Mr. LANDESMAN. He is not saying that there was a call from Hanzlik. He is saying that there was a call from OMB.

Senator EAGLETON. You are rather good with the English language.

Mr. LANDESMAN. I try real hard.

Senator EAGLETON. I am rather good with it myself, and this paragraph says that there is congressional interest because of a call from OMB to Hanzlik at one point, sensitive.

Mr. LANDESMAN. They knew that there was a call from OMB to Hanzlik because a big fuss was made, as we all know, and because of it, it is sensitive, somebody had better go and read this, and don't do what they normally do.

I don't see what is sinister about it, honestly.

Senator EAGLETON. You also mentioned that normally the publication in the Federal Register comes within 2 weeks after the PRO is issued.

Mr. LANDESMAN. I didn't say anything about that subject at all.

Senator EAGLETON. Didn't you say that publication in the Federal Register follows in a couple of weeks after the PRO?

Mr. LANDESMAN. I didn't speculate on what the normal interval is.

Senator EAGLETON. This is a case that has been floundering over in ERA for 5 years. You became aware of it in 1982. By your own testimony, you became aware in 1984 that Joe Wright is involved in the case. Then you become aware that the inspector general is preparing to investigate. Then what really causes you to sweat is that the Wall Street Journal is snooping around because they interviewed you. Then you decided that you had better "CYA" and issue that PRO in the sleeping *Canal* case, that is, the sleeping *Canal* case owned by the Wright family. That is after the IG gets on the warpath, the Wall Street Journal gets on the warpath, after nine redrafts, finally, Landesman finds a redraft that he can sign. Suddenly, on April 18, 1985, the PRO is issued. Isn't that an inference that a reasonable person could draw?

Mr. LANDESMAN. If the premise of your question was sound, the inference might be sound, but the premise is not correct. I think that you have mischaracterized what I said earlier. I did not say that in 1984, at any time in 1984, I knew that this was a Wright matter, and you know that I didn't say that. I said very clearly that the first I heard about that was in March 1985.

What I did hear in 1984, and what I said earlier today about 1984, it was in late 1984 that I heard that the Wright family had some interest in Anchor.

Senator EAGLETON. Didn't you know that Canal was a subsidiary of it?

Mr. LANDESMAN. As a matter of fact, I don't know if I did. You are interrupting me again, Senator, and I am trying to make a point.

Senator EAGLETON. You can commit a little perjury. You knew that Canal was a subsidiary of Anchor.

Mr. LANDESMAN. I hope that what you said was gratuitously and not intentional.

Senator EAGLETON. It was intentional.

Mr. LANDESMAN. I did not know of the Wright involvement in this matter in 1984, I only found out about it in 1985.

Senator, if I wanted to CYA, I could have taken one of these and sent drafts and made myself look very good, and the minute the Wall Street Journal called, I could have signed one of the early drafts if that was my intention, but it was not my intention. My intention was, as I said earlier, to have the Canal case issued after the City Service case was issued, and that is what I did, and only after the Canal case was made to conform to the pleadings in Canal.

Senator EAGLETON. Would you dispute, just one question, I know my time is up.

Chairman ROTH. Let him complete his answer, then you may ask one question.

Senator Rudman?

Mr. LANDESMAN. I will consider it complete.

Senator EAGLETON. Would you dispute an interview which you gave to our staff that indicates that you knew of the Wright involvement by September 1984?

Mr. LANDESMAN. The Wright involvement in that context means, as I just explained to the Senator, I knew in September or somewhere along there of the Wright family was involved, but I did not know of the issue of whether Mr. Joe Wright of OMB had anything to do with the setting up of on October 1982 meeting. I did not know that until March 1985, when I was told about it by Mr. Hanzlik.

Chairman ROTH. Time is up.

Senator Rudman.

Senator RUDMAN. Mr. Landesman, could you, just for the record, and for my own information, tell us your educational background?

Mr. LANDESMAN. I went to Brooklyn College, graduated in 1958. I went to Harvard Law School, graduated in 1961, and I was ordained by Yeshiva Torah Vodasth.

Senator RUDMAN. You are an ordained rabbi?

Mr. LANDESMAN. Yes, Senator.

Senator RUDMAN. You graduated from Harvard Law School and you have been in Government for how long?

Mr. LANDESMAN. Twenty-three-plus years.

Senator RUDMAN. You thus have a few more years to go before you elect to retire, if you wish to?

Mr. LANDESMAN. I'm actually hoping it will be fewer than that. [Laughter.]

Senator RUDMAN. I don't blame you, Mr. Landesman. Do you know Joe Wright, Jr.?

Mr. LANDESMAN. I met him yesterday for the first time in the hall.

Senator RUDMAN. Do you know Joe Wright, Sr.?

Mr. LANDESMAN. No, sir.

Senator RUDMAN. I want to say to my friend from Missouri, in a very friendly fashion, who lauded my abilities as attorney general, I have tried about 500 jury trials, but if this was a trial, and I were a judge at this point, I would direct a verdict for the defendant, and there is a defendant here, and I would award costs.

Mr. Landesman, I want to ask you just one simple question. If I understand the inordinate delay, and it certainly was inordinate, looking at it without knowing all the facts, of the *Canal* case, if I understand you correctly, it is your contention that you believe that Canal had greater liability after looking at the case than the Kansas City office and Mr. Lynch evidently thought that they had, is that correct?

Mr. LANDESMAN. The Kansas City office never really was on this case. That is correct with respect to Mr. Lynch.

Senator RUDMAN. In other words, Mr. Lynch said that there was one count, an entitlements count, and you said there were two counts, the tier pricing, if you will, being the second, and the more serious count?

Mr. LANDESMAN. Yes; in addition, the last month of controls was January 1981. The controls came to an end on January 27, 1981, by Executive order of the President.

On an entitlement basis, nothing for January would be a violation, because there was no whole month, and the Department has never issued an entitlement obligation order for January 1981.

But on the alternate basis, there is a violation for January 1982 as well, and it was included.

Senator RUDMAN. I take it that the *Cities* case was a case of first impression on some of the issues being litigated?

Mr. LANDESMAN. Yes, sir.

Senator RUDMAN. In other words, there were issues that arose from your regulations and your interpretation of those regulations that you applied in the *Tier* case and *Cities* case that had never been litigated and decided before, is that correct?

Mr. LANDESMAN. Yes; that is correct.

Senator RUDMAN. How many issues? Were there a number, or was there just one central issue?

Mr. LANDESMAN. There was one conceptual issue, but in the *Cities* case, it involved transactions with 18 million barrels of oil, and the *Arco Co.* case brought later in 1985 involved some 48 million barrels of oil.

Senator RUDMAN. What were the stakes to the Government in the *Cities* case, exclusive of interest?

Mr. LANDESMAN. About a quarter of a billion dollars.

Senator RUDMAN. What were the stakes in the *Canal* case at the highest number?

Mr. LANDESMAN. Including interest it was $21 million.

Senator RUDMAN. So Mr. Lynch, who I am sure is a very competent auditor, brought the entitlement case to your attention, and you looked at the case, and evidently, you saw that the same issue that was in the *Cities* case was in the *Canal* case. I assume you mean by that that no other case like Canal or Cities had been litigated?

Mr. LANDESMAN. That is correct. They would have been—it was just a question of which one would be first. And we chose to bring the *Cities* case first.

Senator RUDMAN. On the basis that if you are going to lose one, you would rather lose the Cities first than the Canal first.

Mr. LANDESMAN. There are a lot of bases. I think I would be giving away some litigation secrets if I actually answered your question thoroughly. Just to say that it was, it was thought, and considered, that Cities was the right thing to do first.

Senator RUDMAN. When did you bring the *Cities* case?

Mr. LANDESMAN. In March, March 5, 1985.

Senator RUDMAN. When did you bring the *Canal* case?

Mr. LANDESMAN. Within about 6 weeks thereafter, and the 6 weeks were needed just to conform the pleadings to the Cities pleadings and to get available staff.

Senator RUDMAN. Incidentally, if one, out of curiosity, wanted to examine the pleadings in the cases, would we find great similarities in the legal assertions being made by the Government?

Mr. LANDESMAN. It would be Cities and Canal? Yes, sir.

Senator RUDMAN. In other words, the legal assertion, not the factual assertions, but the legal assertions upon which the administrative case was brought, are, I assume, identical?

Mr. LANDESMAN. Well, they're very close, and in addition, the same staff drafted it. The same Gloria Sulton who was asked to hold off on Canal so as to do Cities, is the one who did the research, collected everyone's thoughts, and she's the one who redrafted the *Canal* case to conform to Cities.

Senator RUDMAN. Mr. Landesman, the reason we are all here is because Mr. Wright made a telephone call to your boss?

Mr. LANDESMAN. Yes.

Senator RUDMAN. And there were only two possible explanations of why this long delay: One, of course, was that there was conspiracy to give Mr. Wright's company special treatment, either because he asked for it, or because your boss decided to give him special treatment, even though he didn't ask for it. The other possible answer is that there is a solid legal reason to go and do what you did.

Let me ask you this: Did Mr. Lynch ever ask you——

Mr. LANDESMAN. Did Mr. who? Hanzlik?

Senator RUDMAN. Hanzlik, ever ask you to schedule the *Canal* case in a special way?

Mr. LANDESMAN. No.

Senator RUDMAN. Did you discuss with him why you were delaying this case in the light of the Cities case?

Mr. LANDESMAN. No.

Senator RUDMAN. He showed no interest in that?

Mr. LANDESMAN. He never showed any interest as far as I'm concerned in either of these two cases after the October 1982 meeting, never said a word about it. Never asked how it was going. He knew full well that the FEDERAL REGISTER notice or whatever could have been finalized at any time. He showed no interest whatever in the matter.

Senator RUDMAN. Did Mr. Hanzlik, during the time he was there, ever come to you and ask you to handle any case in any special way?

Mr. LANDESMAN. No, sir.

Senator RUDMAN. One other question, Mr. Landesman. There was much to-do made yesterday about meeting with counsel and discussing a proposed order. Is that unusual?

Mr. LANDESMAN. No; it's not.

Senator RUDMAN. Was it unusual when you were with the FCT?

Senator LANDESMAN. Not really, no, It's—there are a variety of reasons why it might be legitimate. Sometimes it's not, but there could be a variety of reasons why it's legitimate, proper, and sometimes advantageous to one side, like sometimes to frighten, intimidate, make someone show some respect, take you seriously. You show them that you're not just pipe smoking, but you actually have a document which is drafted that lacks but a signature and that you have a pen.

It shows the imminence of an event, which has a very dramatic effect at times.

Senator RUDMAN. Would that be similar to a practice we had when I was in New Hampshire and when someone was about to be indicted in a case, showing them the proposed indictment, showing them wire tap evidence authorized by a court, laying it out, and saying "now what do you want to do?" Is that the same tactic?

Mr. LANDESMAN. Yes; it's the same tactic.

Senator RUDMAN. Have you done that many times?

Mr. LANDESMAN. Yes.

Senator RUDMAN. Was there anything unusual about going over a proposed order with lawyers as far as you're concerned?

Mr. LANDESMAN. No, sir.

Senator RUDMAN. Mr. Chairman, I don't have any questions. Let me make a comment for the record.

I haven't been here very long, and I have heard from many witnesses and I have understood testimony as much as anyone in this room, and I understand candor when I hear it. I want to say for the record that any kind of allegation that you have not told the truth here is based on no facts whatsoever, it is simply based on someone wanting to prove a point they want to prove, and I am a little offended as a member of this panel that anyone wanted to make that charge against you.

I think as a Government employee, you are entitled to that. I thank you for your testimony.

Mr. LANDESMAN. Thank you, thank you, I appreciate it.

Chairman ROTH. Senator Cohen.

Senator COHEN. Mr. Chairman, thank you very much.

I disagree with Senator Rudman on only one point, that following your testimony, if he were a judge, he would accept a directed verdict. I don't think I would accept a directed verdict. I don't think I would accept one that quickly, because you are only one witness, and we are only talking about one aspect of the proceeding.

But I would like to say that I have no judgment as to whether there was an illegal fixing of this case or not. There may have been an impropriety. At least, there has been the appearance of it, and it looks bad. It may be bad, and it may even be dishonest.

But it's also possible that stupidity did not amount to corruption, and that, in fact, a stupid thing was done that did not amount to a corrupt act and a compromise of Mr. Wright's public obligations. We haven't reached that decision point yet on judgment.

Yesterday's testimony raised some very strong suspicions that, one, there were intentional delays in the case; two, there was special handling. What I gather from your testimony today is you agree that there were delays and there was a special handling, but for an entirely different reason.

Mr. **Landesman**. Correct, Senator.

Senator **Cohen**. You were concerned about the precedential effect and also the possible prejudicial effect——

Mr. **Landesman**. Correct.

Chairman **Cohen** [continuing]. Of that case. But the Kansas City regional office was not fully informed, that they did not fully understand the implication, not only for this case, but for the other cases that were being handled.

Mr. **Landesman**. That is correct. Actually, Senator——

Senator **Eagleton**. I say to Senator Cohen, entitlements cases are handled out of Washington. Entitlements cases were not handled in Kansas City.

Mr. **Landesman**. Generally not, generally, they were Washington cases. As a matter of fact, the work that was being done on tier trading at that time involving Cities was more or less not made—that information was not generally known. It was kept from a great deal of the staff.

Senator **Cohen**. You said you just met Mr. Wright in the hallway yesterday?

Mr. **Landesman**. Yes.

Senator **Cohen**. Mr. Wright, Jr. Did you ever talk to him about this case on the phone?

Mr. **Landesman**. I have never spoken to anyone on the phone at all about the case.

Senator **Cohen**. Ever had any meeting with any of his representatives at all on this matter?

Mr. **Landesman**. No.

Senator **Cohen**. Mr. Chairman, I don't have any more questions. I think there is a difference here: we will have to continue to explore between a call being made to try and tell somebody to please speed it up or resolve it or move it, as opposed to whether this amounts to fixing. It seems to me that at least some of us, have reached the conclusion that it was to "fix it" rather than to "move it," expedite it," or "resolve it" somehow.

I must say that I must have dozens of calls each week from constituents saying, "we can't get an answer. We can't get a meeting.

We can't get a hearing. Can you call somebody to see if they won't at least move the case along?"

In this particular occasion, we have the added feature, however, of having a personal interest, and that's where the appearance factor comes in when Mr. Wright becomes involved.

Again, it may have been a dumb thing to do. It doesn't necessarily mean it was a corrupt thing to do, and I think that's what the committee is trying to find out. I must say I agree with Senator Rudman and his statement about your credibility.

We have had witnesses come before the committee who have been involved in union corruption and who have been "chop shop" operators. We have had a host of rather unsavory characters testify before this committee. I have never heard anyone accused of committee perjury, particularly not someone who, I think, has a deeply religious conviction as you. I doubt very much whether that statement could stand up.

Mr. LANDESMAN. I'm sure the Senator is correct.

Chairman ROTH. Senator Cochran.

Senator COCHRAN. I have no question, Mr. Chairman.

Chairman ROTH. The Chair has no further questions.

Senator Eagleton.

Senator EAGLETON. Does Senator Rudman or Senator Cohen or Senator Cochran wish to question the witness about the Dick/Diana amendment? I would be glad to yield time.

Senator COCHRAN. I think he has fully answered, as far as I'm concerned. I think he has fully answered every question put to him.

Senator RUDMAN. Senator Eagleton, if you would allow me one question if Dick Green and Diana had been aware of this case, what would have been sent to them? This memo obviously had to be written after a publication in the Wall Street Journal story, I assume.

Senator EAGLETON. Not necessarily.

Senator RUDMAN. When is the earliest date that this memo could have been written?

Mr. LANDESMAN. Well, the earliest would have been the day after the PRO was issued, which would take you to mid-April 1985.

The memo is not dated, and so let me just explain to you, Senator Rudman. This memo was written by somebody senior in Corrallo's organization, quite possibly Anthony Miles. Anthony Miles had nothing to do with Anchor or Canal, he had nothing to do with any of the meetings. He probably never heard of Coty Dupre, R.N. Dunagan or Joe Wright, Sr.

He has become aware because we had begun to talk about it in March and April 1983, that there was a lot of press interest and later congressional interest, IG interest, GAO interest. Everyone was talking about this famous phone call this, as it will turn out to be, expensive phone call by someone to someone about the *Anchor* case.

It was no secret in the halls of the DOE, and here is a fellow saying:

> You guys better shape up and learn this case, get it assigned quickly; Let's not get caught with yet a further embarrassment about mishandling this case. So sign it fast and get that person to know it.

Senator RUDMAN. So in other words, this would have had to have been written after congressional interest and press interest was known to the Department. Isn't that correct?

Mr. LANDESMAN. Senator Rudman, the ERA, contrary to what you might have thought from sitting here in the last few days, is a very, very honest place. There are a lot of cases. They involve tremendous sums of money, and the people there are of the highest integrity. A matter like this, an allegation like that, the whole business with the phone call and the allegations since then were taken very, very seriously, and everybody knew about it, and they didn't want to get hurt by it. That's what this memo is trying to tell somebody: Take this seriously.

But this is not an indepenent confirmation of any of the basic allegations in this case, nor could it possibly have intended, nor could any conceivable author of this kind of document have been in a position to know anything about it.

Senator RUDMAN. I thank my friend from Missouri for yielding to me the time.

Senator EAGLETON. So it could have been written as early as March or April, as you said, in 1985?

Mr. LANDESMAN. It couldn't be March. It would have to be after the issuance of the PRO, because it says, here is the PRO ready for assignment, meaning it is ready for a lawyer who is going to have to litigate it.

Senator EAGLETON. You said March or April.

Mr. LANDESMAN. If I said March, I was in error.

Senator EAGLETON. You also said in earlier examination by me that it was possible that these four individuals named may have some foreknowledge about the *Canal* case: Dick Green, Diana, Corrallo, and Anthony Miles.

Mr. LANDESMAN. The foreknowledge that you were referring to at that time was foreknowledge after PRO, but before the case was ready for litigation.

Senator EAGLETON. When was your interview with the Wall Street Journal?

Mr. LANDESMAN. I don't remember the date, but I think it was in March 1985, and it was not just one interview.

Senator EAGLETON. More than one interview. He had been working on this story for weeks and weeks and weeks, hadn't he?

Mr. LANDESMAN. I believe before he published it, it was a good 6 weeks subsequent to the first time that he spoke to me, I think.

Senator EAGLETON. If——

Mr. LANDESMAN. I assume we are speaking about the Pound story in the Wall Street Journal.

Senator EAGLETON. Pound story, Wall Street Journal.

Mr. LANDESMAN. Yes.

Senator EAGLETON. If Canal was moribund because of the *Cities* case, why wasn't the file, back in 1981, marked accordingly, instead of going through nine redrafts from 1981 to 1985?

Mr. LANDESMAN. Senator, I think there is a misunderstanding.

The relationship between Cities and Canal was not offered as an explanation for the time delays way back. That is only an explanation for their most recent—that becomes an issue beginning, say, in the beginning of 1984.

Senator Eagleton. OK.

Mr. Landesman. Prior thereto, the—any delay in the issuance of the *Canal* case would have to be justified on other bases.

Senator Eagleton. OK. So it is still delay, we will call it, starts, that clock starts running when in 1984?

Mr. Landesman. I cannot say exactly when. It's not really—it's not really that important.

Senator Eagleton. It is to me.

Mr. Landesman. Well, I didn't mean to say—I didn't mean to belittle the importance to you. What I mean to say is that there is—in my memory and from where I am coming from, there was no particular day in 1984 that made it important.

But we were working on the *Cities* case all throughout 1984; a little bit even before then in 1983, the Tulsa Office was investigating it. All throughout 1984, lawyers were drafting it. Originally, it was to have been issued by Labor Day. People were commanded to have it done by Labor Day.

But serious dispute arose as to how to plead the case between some senior lawyers, and it took until the next March to finally get it resolved.

We also ran into some evidence problems, some things that we thought were solidly investigated turned out not to be so we just blew a lot of time on it.

But I would say, by the beginning of 1984, and maybe even for some period beforehand, there was a valid Cities reason not to issue Canal. Before that, there were other reasons.

Senator Eagleton. Could you search your files and tell us when the Cities reason really came to the forefront?

Mr. Landesman. It's possible that I could clarify the timeframe a little better, it is possible.

Senator Eagleton. To quote back your testimony, you said that if it were delayed at earlier periods, it was delayed for other reasons.

Mr. Landesman. What I said is it would have to be justified on other bases.

Senator Eagleton. It would have to be justified on other bases. So if it were not proceeding in a timely way in the fall of 1982, or the spring and summer of 1983, then it would have to be justified on other bases?

Mr. Landesman. That's correct.

Senator Eagleton. Were you in charge of the *Canal* case back then?

Mr. Landesman. No. I was second in charge of the unit, which had responsibility for the *Canal* case.

Senator Eagleton. Who was your superior?

Mr. Landesman. Milton Lorenz, the special counsel, from about January 1982 on, when he came to Washington from Dallas.

Senator Eagleton. Did you talk to Milton Lorenz about the *Canal* case? I am sticking with *Canal*. I want to finish it up before I go to *Anchor*.

From the fall of 1982 to the summer of 1983, did you talk to Milton Lorenz about the *Canal* case?

Mr. Landesman. I believe so, yes.

Senator **Eagleton**. Did you ask Mr. Lorenz why isn't this moving?

Mr. **Landesman**. Well, if I may, if you will permit, the first I remember of a discussion with Milton Lorenz abut the *Canal* case was probably 3 months after we had our first meeting with the *Anchor* people in October 1982. And I recall in the intervening time, Mr. Lynch came up with one of the drafts of the *Canal* case, which he proposed be issued, and either Milton said to me or I said to him, "If we were having trouble settling the *Anchor* case on the basis of financial hardship when all we knew about was the *Anchor* case, the combination of the *Canal* case will make it totally impossible to settle with them and the other one of us agreed that that would be an enormously complicating factor.

That's what happened, and at that point, the *Anchor* case was in the settlement process. The *Canal* case came out of the blue. We did not know that at the October 1982 meeting, at the November 1982 meeting, even into early January-February, we were not aware that there was also a *Canal* case or if we were aware of it, we were not aware of the combination of the two companies. We did not know that they were related to each other.

Senator **Eagleton**. Who was in charge of the *Canal* case during the period, the fall of 1982 through the summer of 1983?

Mr. **Landesman**. At that time, *Canal* was one of many, almost 100 local, what we regarded as routine entitlement cases, and they were being handled by the Entitlements Branch, of which Mr. Lynch ultimately became the senior auditor.

Senator **Eagleton**. Is Mr. Lorenz and you, weren't you superior to Mr. Lynch?

Mr. **Landesman**. Oh, yes. We were acutually two levels superior.

Senator **Eagleton**. So if there was somebody in charge of the *Canal* case, and all the others that—you said there were 100?

Mr. **Landesman**. About 100.

Senator **Eagleton**. In the fall of 1982 through the summer of 1983, then if you were putting it out on a chart, it would be Lorenz, Landesman, somebody, and Lynch?

Mr. **Landesman**. No, there was somebody between Lynch and us.

Senator **Eagleton**. Before moving to *Anchor*, it is your testimony that any of these decisions which we will get into with Mr. Dupre, Mr. Dunagan, and that other fellow who may or may not have been there, and they were talking settlement about *Anchor*. No mention was ever made that there was also a *Canal* case?

Mr. **Landesman**. No mention was made of the *Canal* case.

I'm not actually——

Senator **Eagleton**. Wouldn't it be unusual, Mr. Landesman, for a company that would be financially imperiled if it had to pay a large fine with interest to come down and want to talk settlement, would settle only half a loaf and leave outstanding even a bigger case, *Canal*'s $20 million case, with interest—*Anchor* was $16 million—and leave outstanding and unresolved the bigger loaf?

Mr. **Landesman**. I don't know whether in 1982 the anchor folks knew about the Canal allegation. I just don't know one way or the other, but there was no mention of the Canal matter at our October 1982 meeting. Of that I am certain, and I certainly was not aware of the existence of that case.

Senator **Eagleton**. You had auditors who were not looking at Canal records?

Mr. **Landesman**. Well, they weren't really out looking, but Mr. Lynch in Washington and his predecsssors had written to the company.

Senator **Eagleton**. And Dupre didn't know that auditors were looking at his company records? He's president.

Mr. **Landesman**. Well, I should hope he knew, because I think there was contact between them.

Senator **Eagleton**. Am I to continue?

Senator **Cochran**. I have no questions at this point, Mr. Chairman.

Senator **Eagleton**. Doesn't it stand the test of reason that the president of the company would know when Federal auditors were looking at his records, Canal records?

Mr. **Landesman**. I should think that he knew that the subject was under scrutiny.

Whether he knew that they had arrived at any conclusions or not or that there was any real liability, I have no knowledge of what was in Mr. Dupre's mind. But he did not speak, to the best of my recollection, about the Canal matter.

We were talking only about the Anchor matter at that time.

I know I didn't answer your half a loaf question. Yes, I should think that one would want to resolve all the problems that they had with a particular agency of Government, not just some of them.

Senator **Eagleton**. You discussed settlements with other companies. When there are multiple charges involved, whether they are against the principal company or the subsidiary or whatever, isn't it customary and routine that they discuss the whole package?

Mr. **Landesman**. It is certainly routine, Senator Eagleton, to discuss what it is you are discussing, whether you are discussing everything or just some part.

Sometimes there is a reason to leave out something, but that itself was discussed, yes.

Senator **Eagleton**. Dupre and Dunagan might have had a good reason to leave outstanding the $20 million in the Canal case?

Mr. **Landesman**. I don't know what may have been in their minds, because I can't read their minds. But they didn't talk about the Canal case.

Senator **Eagleton**. Might they think that since the canal PRO had never been issued as distinct from the anchor case where the PRO was issued, might they think that maybe the circumstances were that the Canal PRO was never issued, and thus they had nothing to worry about it because the Canal PRO was not at issue, Indeed, wasnt' issue for 4½ years?

Mr. **Landesman**. You are asking me to speculate. I could only speculate that there is such a possibility. Anything is possible, but if they did that, you know, to speculate further, if they did not, and guess wrong and settled with the anchor thing and then the next day faced a Canal PRO of $21 million, without the volume discount that comes out of settling two things at once, I think they would have been angry at themselves for their blunder.

Senator EAGLETON. I agree with that answer. I agree that if they were trying to settle, they would want to settle both. Would you say it would be a gamble?

Mr. LANDESMAN. Yes.

Senator EAGLETON. Maybe Dunagan and Dupre have reason to believe that things were going better on Canal and since no PRO had been issued, a $20 million case was in the graveyard.

Mr. LANDESMAN. Well, If—they certainly couldn't have learned that from us, because it was not in the graveyard. It was still on the books, and as a matter of fact, it surfaced, as did most of the others.

Senator EAGLETON. Would you dispute this, Mr. Landesman: Representing the Canal Refining Co. in the capacity of outside counsel, Mr. R.N. Dunagan 3d, called on William C. Lynch, the Entitlements Branch auditor in ERA on July 22, 1981, in Washington. Lynch was handling the Canal case. Lynch made notes for that day, and in the notes, Lynch says, "I gave him," this is Dunagan, "the background on the problems we had with Canal."

And then informed him that from July 1980 to January 1981 Canal was allegedly responsible for $12 million in entitlements violations.

That is July 22, 1981. Would you dispute that?

Mr. LANDESMAN. I would not dispute it. I have no knowledge of it.

Senator EAGLETON. But Mr. Dunagan had knowledge of it.

Mr. LANDESMAN. If it's true that there was such a conversation, then Dunagan at least had knowledge that Lynch thought that there was a $12 million violation, but that actually wouldn't be dispositive of the earlier inquiry you were talking about, which was whether, by the end of 1982, they had come to believe that that violation had perhaps disappeared for whatever reason. That wouldn't be dispositive of that.

Senator EAGLETON. It wouldn't be dispositive of that, but it would be dispositive of the fact that Coty Dupre, Dunagan, and Joe Wright, Sr., knew, at least by July 22d, 1981, that there was the threat of a $12 million violation, at that time, plus interest on the Canal case?

Mr. LANDESMAN. Yes, it would be dispositive of any issue of whether there had been any knowledge on their part of the DOE interest in the matter, yes.

Senator EAGLETON. Yes, and Lynch kept contemporaneous notes. You know Mr. Lynch to be an honest man?

Mr. LANDESMAN. I think he is an honest man, often mistaken, but honest.

Senator EAGLETON. You have worked with him through the years?

Mr. LANDESMAN. I have worked with him for about 3 or so years, yes, sometimes closely.

Senator EAGLETON. So to the head operators at Canal, at least as early as July 1981 and really, earlier, because the auditors had been out there looking at their books, knew there was a *Canal* case, knew by July 1981 it was a $12 million potential and rising because of interest. Yet it didn't seek to settle it in a package with Anchor. It was just going to ride?

Mr. LANDESMAN. As I said, Senator, I can't explain why, but it was not brought up in the meetings that I remember attending with Anchor.

Senator EAGLETON. I can't explain it, either. I can't explain it, either. I practiced law probably longer than Senator Rudman, not near as long as Senator Roth, because he is much older. [Laughter.]

Senator EAGLETON. And I have settled a lot of lawsuits, and when you sit down to settle a lawsuit or suits, you work out a package deal if there are multiple suits and you are representing a defendant. You work out a package. It is special when the moving party is the same agency, ERA. You know the cases are there. Although you know no PRO has been issued in Canal, that's difference. You do know a PRO has been issued in Anchor.

Let's move on.

Chairman ROTH. Could I interrupt here, because this witness has been before us since almost 9:30. We will try to be patient with every Senator, giving them full opportunity to ask the questions that they think are appropriate, but the distinguished Senator from Missouri has agreed with me that we will complete today, and I wonder if he is about ready to move on.

Senator EAGLETON. I will move on to Anchor.

Chairman ROTH. How long are you going to take?

Senator EAGLETON. I don't know. We will try to move it. Do you want to take a break or something?

Chairman ROTH. No, no, but we do want to proceed.

Yes. There will be a 10-minute recess.

[A brief recess was taken.]

Chairman ROTH. The committee will be in order.

I would say that we intend to continue right through lunch in the interest of expediting the hearing. I would ask the distinguished Senator from Missouri to try to bring to a close as promptly as possible the interrogation of the witness.

Senator EAGLETON. My final question on Canal: the Dick/Diana memo, did you give up your copy of that?

Mr. LANDESMAN. I remember, Senator.

Senator EAGLETON. There is a second paragraph; I will read the first two paragraphs. "Here is the conditional refined PRO for assignment."

"This is a combination of Cities and Dorchester and more Dorchester on the facts." It says, "Memo," possibly Anthony Miles.

Now, if Mr. Miles is correct, that it is more Dorchester on the facts; then the dates of the *Dorchester* case and how it was handled are relevant. And the *Dorchester* case was handled in a timely way and resolved. PRO was issued on March 19, 1982, published in the Federal Register June 2, 1982, 2½ months later, unlike anything at Anchor that we are going to get to, where it has never been published.

The RO, called the remedial order, which is the resolution of the matter, which was issued on March 11, 1985. So Dorchester was resolved. The writer of this memo, possibly Anthony Miles, says that Canal is more Dorchester on the facts. Dorchester gets resolved, Canal doesn't.

Mr. LANDESMAN. Senator, when the *Dorchester* case was commenced in 1982, we were not aware of the tier trading activity that

I alluded to when I spoke of the Cities-Arco-Canal matter. We did not know that this practice was widespread.

That is why the *Dorchester* case proceeded apace. In March 1982, the Tulsa office was only in the beginning of its inquiry about the Cities matter. It is really only in 1983 and in 1984 that we became aware of the large-scale activity by refiners of all sizes in the tier trading and in acquiring discounts, tier oil or discount foreign oil in return for reciprocal of domestic, lower cured oil. I do not know, though——

Senator EAGLETON. Do you agree or disagree with the writer of this memo, possibly Anthony Miles? Is Anthony Miles a distinguished attorney in your office?

Mr. LANDESMAN. Yes, he is.

Senator EAGLETON. Or in the ERA office, that the *Canal* case is more *Dorchester* on the facts?

Mr. LANDESMAN. I don't know in what sense he meant more *Dorchester* than *Cities* on the facts.

Senator EAGLETON. All right. Let's move to Anchor. We all know that Anchor was out there in Kansas City, and that is where cases of this category are, at the regional offices, right?

Mr. LANDESMAN. That's where they were, yes.

Mr. EAGLETON. And we also know that, to use your words earlier, that this was a somewhat minor case.

Mr. LANDESMAN. It was minor by national standards. It was not minor by Kansas City standards.

Mr. EAGLETON. Minor by national standards?

Mr. LANDESMAN. Yes, sir.

Senator EAGLETON. Not minor to the Anchor Co. but minor by national standards?

Mr. LANDESMAN. That is correct.

Mr. EAGLETON. And we all know that on September 14, Mr. Jackson handed the PRO to Mr. Dunagan. That is the fact in the record.

Mr. LANDESMAN. It was issued on September 14, 1982.

Senator EAGLETON. Right, and he handed a copy to Dunagan, when Dunagan made his $50,000 settlement offer. That is earlier testimony, but you weren't there. Coty Dupre testified to that.

Had you had a working relationship with David Jackson at this point in time, back in 1982?

Mr. LANDESMAN. Yes, Senator.

Senator EAGLETON. For several years?

Mr. LANDESMAN. Yes.

Senator EAGLETON. He works totally for the Energy Department for about 10 years, I think, and you have worked many, many more than that, so you have a several-year relationship.

Mr. LANDESMAN. No, we actually started about the same time, in about the middle of 1974. I had known him for a great number of years by them.

Senator EAGLETON. Was it a cordial relationship?

Mr. LANDESMAN. Yes, sir.

Senator EAGLETON. He would come down here every month, wouldn't he, when he was regional director with his cases and, I mean his monthly review meetings?

Mr. LANDESMAN. Beginning in 1982, he came almost every month.

Senator EAGLETON. Yes, and you knew him before that?

Mr. LANDESMAN. I knew him before that.

Senator EAGLETON. And you were present when he came down here on monthly visits——

Mr. LANDESMAN. Yes, Senator.

Senator EAGLETON [continuing]. First name basis?

Mr. LANDESMAN. Oh, yes.

Senator EAGLETON. Ever have a drink with him?

Mr. LANDESMAN. I don't drink much, but possibly coffee.

Senator EAGLETON. Ever have lunch or a cup of coffee with him?

Mr. LANDESMAN. Yes, sir.

Senator EAGLETON. Ever have lunch with him?

Mr. LANDESMAN. I'm sure we must have had lunch some time.

Senator EAGLETON. Did you have a high respect for him as a professionally competent attorney?

Mr. LANDESMAN. Yes.

Senator EAGLETON. Did he get some merit raises?

Mr. LANDESMAN. I believe so, yes.

Senator EAGLETON. Did any of those merit raises come through your shop for approval, or would that be Mr. Lorenz?

Mr. LANDESMAN. It would normally be Mr. Lorenz. I might be consulted about them from time to time.

Senator EAGLETON. If you were consulted, you didn't veto any raises for him?

Mr. LANDESMAN. I never veto raises for people.

Senator EAGLETON. And he got some cash bonuses or something when he left?

Mr. LANDESMAN. I believe so, yes.

Senator EAGLETON. And you didn't veto that?

Mr. LANDESMAN. No, sir. I was actually very nice to him over a long period of years. In more ways than one.

Senator EAGLETON. He told me that he liked you as an individual. In fact, he told me that the day before yesterday in my office.

Mr. LANDESMAN. I am pleased to hear that.

Senator EAGLETON. So there is no bitterness, certainly not back in 1982, and focusing in on that, there is no bitterness between you and David Jackson?

Mr. LANDESMAN. There never was, and isn't now, any bitterness so far as I am concerned.

Senator EAGLETON. Here is what Jackson told me when I interviewed him on May 13, 1985. "I," meaning Jackson, "would go back to Washington every month or so. I would ask Hanzlik, what about *Anchor*? After 3 or 4 months, I was in a meeting with Hanzlik, Lorenz"—he identified who they are—"Hanzlik, Milton Lorenz, special counsel for compliance, ERA, and Avrom Landesman, director of enforcement. One of them said, one of them, 'A high-level Government official is involved in this *Anchor* case, and let us take care of it, you don't have to worry about it.'"

You categorically deny that you said anything like that?

Mr. LANDESMAN. I categorically——

Senator EAGLETON. Or words to that effect?

Mr. LANDESMAN. I categorially deny that I ever said any such thing or that any such thing was ever said in my presence.

Senator EAGLETON. OK. Why would Mr. Jackson, under oath, say words to that effect and then back up his statement with his case logs which show that the *Anchor* case had been taken away from him some time between November 1982 and May 1983 and even marks in Lorenz beside the *Anchor* case? Why would Jackson, a friend of yours, mutually affable friendship, say under oath words to this effect and have documents marked in a way to indicate that *Anchor* had been taken back to Washington?

Mr. LANDESMAN. Senator, there is one thing about what you just said, and you spoke of it yesterday, too, which is the something that is not correct. The *Anchor* case was not taken away from Kansas City.

Senator EAGLETON. Not the physical file, Mr. Landesman.

Mr. LANDESMAN. No, no, no.

Senator EAGLETON. The physical field remained in Kansas City.

Chairman ROTH. Let us have order.

Senator EAGLETON. Control, decisionmaking control.

Mr. LANDESMAN. No, I am not referring to that point, Senator.

Chairman ROTH. Would you pull the microphone a little closer, please?

Mr. LANDESMAN. It will be in my mouth. [Laughter.]

The—but that is OK, if the Senate requires it. [Laughter.]

We have had other things in our mouths before.

What I want to say is the function of the Kansas City office on the *Anchor* case was to do the audit, to do the drafting of an appropriate enforcement document, and to issue it. That is the end of Kansas City's involvement in the case. Once the document is issued, the next thing that has to happen is notice thereof has to be published in the Federal Register. The Federal Register does not accept notices from field offices. They only accept it from headquarters, and that is true about a lot of kinds of documents.

So Kansas City was done, for all practical purposes, with the case, except for one thing: That even after the issuance of the PRO, if there were settlement opportunities, the Kansas City office would be permitted, notwithstanding that it was done with the case, to attempt to settle the case. In fact, they were encouraged to do so in 1982, encouraged in all kinds of ways.

The Kansas City office attempted to settle the case. As you know, they were not able to. The parties were, even after Anchor upped its offer by tenfold, they were still $1½ million apart, and Mr. Dupre and Mr. Dunagan had successfully gotten Washington officials to look at the case and to study the case.

Mr. Jackson was notified of the October 22 meeting with Dupre and Dunagan by me in advance of that meeting, and he gave me some background on it, and I even wrote notes on it, which I don't have with me today, but I believe the committee has them. I called him after the meeting and told him what had happened, what their story was, et cetera.

It was no secret to Jackson that that meeting took place, and it was not—he was in no way opposed to having that meeting. The continual interest that Jackson maintained in the *Anchor* case was solely two things: One, it continued to be sort of on his log; that is, on his inventory, and he thought he was sort of being held responsible for it, merely because the Federal Register notice had not been issued. If that had taken place, the case would then be on adminstrative litigations roles. It would have been on Tony Miles' log, not on Jackson's log, and he was very concerned about the appearance of his inventory. In fact, no one was holding him responsible for anything more on the case, but he continued to worry about how it looked.

Second, he did, from time to time, I would say, with some frequency, inquire as to why the Federal Register notice had not been issued. Whenever he asked me that, I told him it was in settlement or Lorenz was taking care of it or Lorenz would decide when the Federal Register notice would issue or I would decide when it would be issued. That was the only conversation we ever had about that matter.

We had that same conversation perhaps a dozen times. Never once in any of those times did he complain about the way it was being handled, did he complain about the national office handling it, did he complain about his being excluded from it, and he never said one word to me until near the end of 1984 when I told him about some problems that were developing of a public relations nature. Never once did he allude to this conversation he now claims to remember. He never during all that time ever told me that I am the one who he thinks told him something about a high official. I never heard about a high official's interest in the matter, and I believe Mr. Jackson is totally and completely mistaken.

You asked me how it's possible that someone who is supposedly such an honorable and wonderful person and affable and a good friend of mine would accuse me of having said something so improper. I can only say that, I too, have wondered about it, and I think it's a mistake—I think it's a case of just a confused recollection in which he—something that he learned later, he is attributing in his memory to something that he thinks happened earlier. But he is totally wrong about it, and a lot of us who are nice people and friendly people and like each other have poor memories about specific events, and he just has his years totally confused.

Senator EAGLETON. Why did he mark Lorenz after the *Anchor* case? Only time in his notes——

Mr. LANDESMAN. Because he——

Senator EAGLETON. Just a minute.

Mr. LANDESMAN. Sorry.

Senator EAGLETON. The only thing on all of his notes that he marks Lorenz after a case.

Mr. LANDESMAN. Because Lorenz had the action at that time on what to do next with that case.

Senator EAGLETON. I agree.

Mr. LANDESMAN. And he means, he means to tell himself or to tell whoever is going to get it, don't look to me for any progress on the case, blame Lorenz if it's taking long. That is what he means.

Senator EAGLETON. Lorenz had control by the fall of 1982 of the *Anchor* case?

Mr. LANDESMAN. That is correct. He had——

Senator EAGLETON. It was up to Lorenz to decide when and if it was to be published in the Federal Register—Lorenz and you. You were his deputy.

Mr. LANDESMAN. That's correct.

Senator EAGLETON. And it was never published.

Now, what was your relationship with Robert Wehrle-Einhorn?

Mr. LANDESMAN. Senator, can I just say one more thing about what you were just talking aobut?

Senator EAGLETON. You can, you can, but I want to note, Mr. Chairman——

Mr. LANDESMAN. I am running into——

Senator EAGLETON [continuing]. That is, the chairman wants to finish this today. I want to finish it today. We will go into the night. I don't want you do say anything.

Mr. LANDESMAN. I won't say more. You have dissuaded me. [Laughter.]

Senator EAGLETON. Say anything you want.

Mr. LANDESMAN. All I wanted to say, very briefly, is that is one point, the records of the agency mistakenly did have that Federal Register notice as having been published. That was an error. It was ultimately rectified. I think Jackson may have worried about that erroneous entry and realized that he would be called to task later, and so he was expecially mindful of it, but it's an insignificant matter.

Senator EAGLETON. I think it is insignificant, because Jackson never said that to anybody. He has been interviewed many, many times by different interviewers. He never, never said anything about an erroneous publication in the Federal Register. What he was concerned about was—never was there a publication in the Federal Register, once Lorenz and Landesman got their mitts on the case. That is what he was concerned with.

Mr. LANDESMAN. Well, he needn't have been concerned, because it wasn't really his problem, and no one was holding him responsible.

Senator EAGLETON. He shouldn't have been concerned.

Mr. LANDESMAN. He was not under any pressure concerning that case. He was under pressure concerning many other cases, but not that one.

Senator EAGLETON. Jackson wasn't under any pressure once it got to Lorenz and Landesman?

Mr. LANDESMAN. That is correct.

Senator EAGLETON. We wonder what pressure Lorenz and Landesman were under. How well did you know Robert Wehrle-Einhorn?

Mr. LANDESMAN. Not quite as well as Jackson, but I had known him for a few years, and had visited with him a couple of times. I talked to him on the phone a lot about technical matters. He came to see me a few times.

Senator EAGLETON. Did you have a high regard for him as a professionally competent attorney?

Mr. LANDESMAN. Yes.

Senator EAGLETON. You knew that he ranked third in his class at the Kansas Law School?

Mr. **Landesman**. I didn't know that until yesterday, but I am happy to know it.

Senator **Eagleton**. A very bright fellow?

Mr. **Landesman**. Bright fellow, hard worker.

Senator **Eagleton**. And a hard worker. He, too, got merit raises in pay and different kinds of awards?

Mr. **Landesman**. I don't actually know that. But he should have.

Senator **Eagleton**. Here is what Wehrle-Einhorn told us:

> However, no Federal Register notice was issued, and by the spring of 1983, I was interested in what had caused the delay. It was either Avrom Landesman or Milton Lorenz who told me in the spring of 1983 that "someone in the White House or the Energy Department and specifically, someone who could hurt us on the budget was exercising political influence to sideline the Anchor PRO."

You categorically deny stating that in your presence?

Mr. **Landesman**. I never said anything like that to Bob Wehrle-Einhorn, and I never heard that Bob Wehrle-Einhorn was ever suggesting that it was I that said that, but I will tell you that I not only didn't say that, but I will repeat again, I could not have said it, because I had no knowlege of any White House person's involvement in the case.

Senator **Eagleton**. If he said it, and said either Landesman or Lorenz, if he said it to Lorenz outside of your presence, of course, you wouldn't know about that, or rather if Lorenz said it to him.

Mr. **Landesman**. I would have no way of knowing something I don't know.

Senator **Eagleton**. And he testified under no oath, in bad health, under serious effects of a heart attack. He testified to this on November 6, 1985, this morning, under oath.

Mr. **Landesman**. If he did, whether he did or not, inasfar as I am personally concerned that he is mistaken.

Senator **Eagleton**. You testified that this was a minor case, not minor in most regional offices, but minor in terms of the national office, the Anchor case.

Mr. **Landesman**. Yes.

Senator **Eagleton**. You testified that it was somewhat unusual for you to get involved in a minor case of this type. That was very early on in your questioning with Senator Roth.

Mr. **Landesman**. It was at that point in 1982, not the time I was working on it; right.

Senator **Eagleton**. No; unusual at that point in time in 1982. You were called into Lorenz' office?

Mr. **Landesman**. No; unusual at that point in time in 1982. You were called into Lorenz' office?

Mr. **Landesman**. No. I was notified by Mr. Hanzlik's office that there would be a meeting on October 22, and would I please attend it.

Senator **Eagleton**. You got in there and told us who the cast of characters were. Did you know what the subject matter was going to be before you got there?

Mr. **Landesman**. I didn't know when I was invited to the meeting, but I learned it in the interim from Mr. Jackson.

Senator **Eagleton**. You learned it, the invitation was, like, a day or two before, and then you learned in the interim?

Mr. LANDESMAN. I think it was more than a day or two. As is customary, I called someone to give me a little briefing on what is the controversy about.

Senator EAGLETON. OK. And so that is, to your knowledge, the first time you heard then, probably, about the Anchor case at all?

Mr. LANDESMAN. That is correct.

Senator EAGLETON. Did you ask Lorenz at any time after the meeting, perhaps, "Milt, you know, I don't handle these minor cases. What am I doing on this case?"

Mr. LANDESMAN. No; not really, because while I didn't handle small refinery cases, I did handle a lot of big and little things, and if they wanted me to handle it, that was fine. That's what I was there for.

Senator EAGLETON. But at that time, you weren't in small refinery cases. That just wasn't your field of operations?

Mr. LANDESMAN. Not mainly, no.

Senator EAGLETON. Did you ask Hanzlik why he got you involved?

Mr. LANDESMAN. No; actually, there were two meetings on that day, and I was asked to sit in on both of them, and they both involved settlements, and they both involved things I normally don't work on. I assumed that they just needed another hand, and maybe they thought that I could make a contribution. But I didn't inquire as to why I was selected.

Senator EAGLETON. And you described these series of meetings, October 22, November 10. Was there one after November 10? I am talking Anchor now.

Mr. LANDESMAN. Well, there was a February meeting, but I don't recall whether I was there or not. Mr. Dupre testified that I was.

Senator EAGLETON. Three meetings with Anchor. Were some or all of the Anchor people there?

Mr. LANDESMAN. Yes.

Senator EAGLETON. And the upshot of it was that settlement could not be worked out on Anchor. Is that the bottom line?

Mr. LANDESMAN. Well, not really. The upshot of it was that we were not certain enough about the facts of the case, the charges. There were a lot of confusing issues involved in this case.

I really didn't stay involved in it during 1983.

Senator EAGLETON. OK.

Mr. LANDESMAN. I dropped out of it.

Senator EAGLETON. But the bottom line is, in addition to the confusion, the case was not settled at any one of those three meetings?

Mr. LANDESMAN. The case was not settled, but unlike some negotiations, a point did not come where a ceremonial cessation of negotiations occurred. It just—it faded and became less frequent, but it didn't formally go away.

Senator EAGLETON. It faded away?

Mr. LANDESMAN. It became less intense.

Senator EAGLETON. Less intense.

Mr. LANDESMAN. In other words, the frequency with which meetings took place became longer. The studies that has to take place became longer.

At one time, there was this now turns out erroneous report from the Dallas Computer Office that apparently, it doesn't look like there is much violation because of these other costs. That turned out to be erroneous, and it just happens to be a case, whose importance became less with the passage of time and with the increase of confusing events and with the pressures of much more important things to do by senior people.

Senator EAGLETON. You testified about the $2 million settlement offer that Jackson made out in Kansas City, and the case had been priced at $16 million. He offered to settle for $2 million.

Does your department make hardship settlements?

Mr. LANDESMAN. Yes.

Senator EAGLETON. That is, if a company, big or small, would be bankrupt by seeking collection of the total claim, you may work out a settlement for a reduced payment that lets the company survive?

Mr. LANDESMAN. Well, one to let the company survive, and two, because if the company does go bankrupt, the amount the Government might recover——

Senator EAGLETON. That is right.

Mr. LANDESMAN. Maybe even less.

Senator EAGLETON. Correct.

Mr. LANDESMAN. Than with a settlement, so we take that into account, if it is demonstrable.

Senator EAGLETON. Just, as an analagous field, did you find that in the Johns Mansfield situation? Did you find that with the company down here in Richmond, VA, which made the Dalkon Shield. You can have a great claim against a company, and if the company is bankrupt or an individual, and individual is bankrupt, your claim isn't worth much if the company is bankrupt.

Mr. LANDESMAN. That is right.

Senator EAGLETON. So it is standard operating procedure to take into account the financial viability of the company to pay. So a settlement figure may be arrived at that is significantly smaller than that originally claimed, and there is precedent for that all over the place, is there not?

Mr. LANDESMAN. Yes, sir.

Senator EAGLETON. You had been in this pursuit at the Energy Department, you stated, for a good number of years, and you negotiated and you have been in all kinds of negotiations, some hundreds of cases, I guess, through the years?

Mr. LANDESMAN. That is correct.

Senator EAGLETON. Do you recall telling the committee, the majority staff, Senator Roth's staff, that you think the Anchor attorney, Mr. Dunagan, that his strategy in dealing with ERA in this case was to let the case die or to let the case remain lost at ERA in the hope that DOE would close down before the case was ever resolved?

That is, as you know, when President Reagan came in, his first order of business, the first minute he took office, in a striped suit, his first order of business was to decontrol oil. He fulfilled a campaign pledge. There is nothing wrong with that. He wanted to get rid of this ERA thing but they had these cases predating decontrol, so you had to do something with these cases.

So there was, and there you still are on some of these cases. Now, did you tell the majority staff that that is what you thought

Dunagan's strategy was, that we will let the case die or remain lost at ERA in the hope of DOE would close down section before the case was resolved?

Mr. **LANDESMAN**. I may have speculated about either this settlement or all of them, but that is a—it is my impression that some people who negotiate with us have that as part of their arsenal of ammunition in mind.

Senator **EAGLETON**. And that Dunagan could well have said this.

Mr. **LANDESMAN**. I don't recall saying that about Dunagan.

Senator **EAGLETON**. That's that?

Mr. **LANDESMAN**. I do not recall saying it specifically about Mr. Dunagan.

Senator **EAGLETON**. We got it out of the statement by the majority staff. Were you interviewed by the majority staff, Miss Kammerman?

Mr. **LANDESMAN**. Senator, I have been interviewed by everyone who can read and write on the subject.

Senator **EAGLETON**. Were you interviewed by Miss Kammerman?

Mr. **LANDESMAN**. Yes. Well, I am not responsible for what people write or say, but I don't have a present recollection of saying it about Mr. Dunagan, but I might well have.

Senator **EAGLETON**. You might have.

Chairman **ROTH**. Could I interrupt? It is 12:15. Could the distinguished ranking member indicate how much longer he things he will need for this witness?

Senator **EAGLETON**. That is all for him.

Chairman **ROTH**. Mr. Landesman, I thank you for your patience and forebearance. I appreciate your being here today. You are excused.

Mr. **LANDESMAN**. Thank you, Senator.

[The public disclosure copy of PRO follows along with a letter from Canal's lawyer.]

Dick/Diane

Here is the Canal Refining PRO for assignment.

This is a comb. of Cities + Dorchester — More Dorchester on the facts.

Should get priority attention.

There is press + congr. interest bec. of a call from OMB to Hanz. at one point. Sensitive!

Please have the attorney review a copy for public reading room placement á la Cities as soon as poss.

LAW OFFICES
OF
R. N. DUNAGAN

SUITE [illegible]
1919 PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20006

TELEPHONE: (202) [illegible]
CABLE ADDRESS: "DUNLEGAL"

December 9, 1985

The Honorable William V. Roth, Jr.
Chairman, Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Senator Roth:

As legal counsel to Anchor Gasoline Corporation (Anchor) and Canal Refining Company (Canal), two small privately-held corporations, I am writing to ask that your Committee not disclose to the public certain business information which Anchor and Canal submitted to the U.S. Department of Energy (DOE) under a claim of confidentiality.

On November 5 and 6, 1985 your Committee held hearings regarding DOE's handling of enforcement cases involving Anchor and Canal. During the course of the hearings, information was offered for the record which has been recognized by the Federal Courts, DOE, and another Congressional committee in the House of Representatives as being protected from public disclosure pursuant to the Trade Secrets Act, 18 U.S.C. §1905; the Freedom of Information Act, 5 U.S.C. §552; and the Administrative Procedure Act, 5 U.S.C. §701-706.

Specifically offered at the hearings was a copy of a Proposed Remedial Order issued to Canal on April 18, 1985 without deletion of trade secrets and commercial or financial information obtained by DOE from Anchor or Canal and which is privileged or confidential and thus protected from public disclosure by the above cited laws. See Chrysler Corp. v. Brown, 441 U.S. 281 (1979). Currently, orders of the Federal Courts, in effect since May 8, 1985, prohibit public disclosure of this information.

The United States District Court for the District of Columbia ordered on May 8, 1985 that "there shall be no public disclosure of the Proposed Remedial Order" issued to Canal on April 18, 1985 pending resolution of issues presented in Canal Refining Co. v. Corrallo, et al., No. 85-1461 (D.D.C. filed May 7, 1985). See Attachment A. By order of the United States Court of Appeals for the District of Columbia Circuit dated July 24, 1985, this order currently remains in effect during the pendency of an appeal. *Canal Refining Co.* v. *Corrallo*, *et al.*, 616 F. Supp. 1035 (D.D.C. 1985), *appeal docketed*, No. 85-5797 (D.C. Cir. July 9, 1985) (Order of July 24, 1985) Attachment B. The appeal is currently calendared for oral argument in February 1986.

Confidentiality of this information has been respected by the only other Congressional committee to review the matter. *See* Transcript of Hearings, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, 99th Cong., 1st Sess. (June 24, 1985).

Although the Proposed Remedial Order in the form offered for the record is protected from disclosure by court order, Canal and DOE have agreed on a public disclosure copy which may be released to the public. Enclosed is a copy of this document to facilitate your review of this matter. You may wish to include this public disclosure copy in the record as a substitute for the Proposed Remedial Order containing the confidential information.

In addition, Anchor and Canal are concerned that other confidential business information submitted to DOE may be publicly disclosed by your committee in preparing the record of the hearings held November 5 and 6, 1985. Accordingly, we ask that you have your committee staff take all necessary steps to insure that documents and information, which pursuant to 18 U.S.C. §1905, 5 U.S.C. §552, and 5 U.S.C. §§701-706 may not be disclosed to the public without the consent of Anchor or Canal, be kept confidential.

Anchor and Canal recognize your responsibilities in overseeing the DOE, including reviewing the action or inaction of DOE officials and employees in carrying out their legal responsibilities. Canal and Anchor do not seek any special favor or unique treatment, but must urge the Committee to recognize that the companies have rights that are protected under federal law.

Your understanding of our position will be appreciated.

Respectfully submitted,

R N Dunagan

R. N. Dunagan, III

RND/cec

cc: Daniel F. Rinzel
Chief Counsel and Staff Director
Permanent Subcommittee on
Investigations

Attachment A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CANAL REFINING COMPANY, :
Plaintiff :
v. : CIVIL ACTION NO. 85-1461
CARL A. CORRALLO, :
AVROM LANDESMAN, :
RAYBURN HANZLIK :
Defendants :

FILED
MAY - 8 1985
JAMES F. DAVEY, Clerk

ORDER

It is by the Court this 8th day of May, 1985

ORDERED, that the motions for a Temporary Restraining Order and a Preliminary Injunction are consolidated; and it is

FURTHER ORDERED, that Plaintiff shall file its brief in support of the request for injunctive relief on or before May 13, 1985. Said brief shall be hand-delivered by Plaintiff to Defendants on that same date. Defendants shall file its Response to Plaintiff's brief on or before May 16, 1985. Pending resolution of the issues presented, there shall be no public disclosure of the Proposed Remedial Order at issue; and it is

FURTHER ORDERED, that page 4 of Exhibit VI of the Complaint and page 4 of Attachment B of the Memorandum of Points and Authorities shall be placed under seal of the Court.

Aubrey E. Robinson, Jr.

Aubrey E. Robinson, Jr.
Chief Judge

Attachment B

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 85-5797 **September Term, 19**84

Canal Refining Company,
Appellant
v.
Carl A. Corrallo, Economic
Regulatory Administration,
U.S. Department of Energy,
et al.,
Appellees

C.A. No. 85-1461

United States Court of Appeals
For The District of Columbia Circuit
FILED JUL 24 1985
GEORGE A. FISHER
CLERK

BEFORE: Tamm, Bork and Starr, Circuit Judges

ORDER

Upon consideration of appellant's emergency motion for stay, and the opposition and reply thereto, it is

ORDERED by the court that the motion is granted. The effect of the district court orders of July 1, 2, and 5, 1985, is stayed until further order of the court. See *WMATA v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977) (listing factors relevant to granting of stay motion on appeal).

Per Curiam

PUBLIC DISCLOSURE COPY

UNITED STATES DEPARTMENT OF ENERGY
ECONOMIC REGULATORY ADMINISTRATION

In Re:	)	Issue Date: April 18, 1985
	)	
Canal Refining Company	)	Case No. N00S98105
	)	
	)	

PROPOSED REMEDIAL ORDER

I. INTRODUCTION

Pursuant to authority conferred by the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"), 15 U.S.C. § 751 *et seq.*, the Department of Energy ("DOE") has conducted an audit and investigation into Canal Refining Company's ("Canal") compliance with the requirements of the Mandatory Petroleum Price and Allocation Regulations and other applicable provisions of law, as discussed herein.

Based upon the results of the audit and investigation conducted by the Economic Regulatory Administration ("ERA"), the ERA issues this Proposed Remedial Order ("PRO") to Canal pursuant to 10 C.F.R. § 205.192. The PRO alleges violations of the Mandatory Petroleum Allocation Regulations, 10 C.F.R. Part 211, the Mandatory Petroleum Price Regulations, 10 C.F.R. Part 212, and the Administrative Procedures and Sanctions, 10 C.F.R. Part 205. These violations resulted from Canal's improper reporting of the tier classification of certain of its crude oil receipts to the DOE Entitlements Program; its sale of domestic oil at prices in excess of those permitted by the DOE regulations; and the circumvention and contravention of the Entitlements Program for the period, July 1, 1980 through January 27, 1981 ("the violation period"). ERA seeks to recover entitlements benefits of $12,546,305.70 , plus interest.

The ERA requests that the Office of Hearings and Appeals ("OHA") issue this PRO as a Remedial Order to Canal.

II. JURISDICTION

On January 14, 1974, the Federal Energy Office issued Mandatory Petroleum Price and Allocation Regulations, 39 Fed. Reg. 1924 (January 15, 1974), under Section 4 of the EPAA, 15 U.S.C. § 753. The regulations governing the allocation of crude oil, commonly called the Domestic Crude Oil Allocation Program or Entitlements Program, were originally promulgated on November 27, 1974, 39 Fed. Reg. 42246 (December 4, 1974), by the Federal Energy Administration ("FEA"). See 10 C.F.R. § 211.67.

On October 1, 1977, pursuant to the DOE Organization Act (42 U.S.C. § 7151, note) and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977), all functions vested by law in the FEA were transferred to and vested in the DOE. Within the DOE, the ERA has been delegated the authority to investigate violations of the Mandatory Petroleum Price and Allocation Regulations and the Administrative Procedures and Sanctions and to seek compliance with those regulations. Within the ERA, pursuant to a reorganization effective January 17, 1985, the Administrator delegated to the Director, Office of Enforcement Programs, the authority to investigate violations of these regulations and take appropriate administrative enforcement actions.

Pursuant to Section 18, the expiration of the EPAA on September 30, 1981 did not affect the ERA's authority to bring an action or proceeding based upon any conduct occurring prior to September 30, 1981.

As used herein, "DOE" refers both to the Department of Energy and to its predecessor agencies.

III. REGULATORY BACKGROUND

1. "Refiner" was defined in 10 C.F.R. § 211.62 as "a firm which owns, operates or controls the operations of one or more refineries." A refinery was defined as an industrial plant, regardless of capacity, that processed crude oil feedstock and manufactured refined petroleum products. 10 C.F.R. § 211.62.

2. "Firm" was defined in 10 C.F.R. § 211.51 and included a "parent and the consolidated entities . . . which it directly or indirectly controls . . . ."

3. During the period covered by this PRO, refiners of crude oil were subject to the Administrative Procedures and Sanctions (10 C.F.R. Part 205), the General Allocation and Price Rules (10 C.F.R. Part 210), the Mandatory Petroleum Allocation Regulations (10 C.F.R. Part 211), the Mandatory Petroleum Price Regulations (10 C.F.R. Part 212), and other applicable provisions of law.

4. Under the Mandatory Petroleum Price Regulations (10 C.F.R. Part 212), first sales of most domestic crude oil were subject to a two-tier pricing system. Under this system, most domestic crude oil was classified at the time of production and sale as "old" or "new". 1/ New crude oil was generally the amount of crude oil produced and sold from a property which exceeded an historical monthly level of production. Old crude oil was the total amount of crude produced and sold from a property in a month, less the "new" oil from the property. 2/ The regulations permitted a producer to sell new crude oil at a substantially higher price than old crude oil. 10 C.F.R. § 212.74. Crude oil produced from stripper well properties had no ceiling price imposed in the first sale. 3/

1/ 10 C.F.R. §§ 212.71, 212.78. The terms "old" and "new" were later replaced with "lower tier" and "upper tier". See 10 C.F.R. § 212.72.

2/ 10 C.F.R. § 212.72. See definitions of "base production control level", "new crude oil", and "old crude oil".

3/ See, 10 C.F.R. § 212.54 (stripper well crude oil), 41 Fed. Reg. 48319 (November 3, 1976).

5. Subpart L of Part 212 governed sales of crude oil, other than the first sale, effective January 1, 1978. 10 C.F.R. § 212.181. A refiner, in sales not made by a reselling business operated by the refiner, was required to

> determine prices in sales of crude oil in accordance with the refiner's consistent and historical accounting practice, provided that the price charged in any sale of crude oil subject to this subpart shall not exceed the price paid by the refiner for the crude oil plus any transportation cost incurred by the refiner to transport the crude oil from the point at which the refiner takes title ... to the point of sale.

10 C.F.R. § 212.183(b).

6. No firm was allowed to charge a price for a covered product which exceeded the maximum price at which that product [was] permitted to be sold to the class of purchaser concerned...." 10 C.F.R. § 212.10(a). "Covered products" included crude oil. 10 C.F.R. § 212.31.

7. Effective November 29, 1974, the Old Oil Allocation Program, or Entitlements Program, was established to equalize the benefits of access to lower priced domestic crude oil among all segments of the petroleum industry. 10 C.F.R. § 211.67. 4/

4/ Section 4(b)(1)(F) of the EPAA required the promulgation of regulations which provided, to the maximum extent practical, for the "equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, non-branded independent marketers, branded independent marketers, and among all users".

In the absence of such a program, refiners that received and processed a greater percentage of price-controlled domestic crude oil would have had a considerable cost advantage over competing refiners which had received predominantly uncontrolled domestic or imported crude oil. The program operated generally to equalize all domestic refiners' crude oil costs by allocating the economic benefits of lower priced domestic crude oil among all refiners without requiring the actual physical transfer of the oil.

8. Under the provisions of the Entitlements Program, each month every eligible refiner was issued a number of entitlements 5/ that was equal to the national domestic crude oil supply ratio (DOSR) (as defined in 10 C.F.R. § 211.62) multiplied by the volume of the crude oil runs to stills 6/ reported by the refiner for a given month. 10 C.F.R. § 211.67(a)(1). If the number of entitlements issued to the refiner in a month was less than the number of barrels of deemed old oil included in the refiner's adjusted crude oil receipts, 7/ the refiner was required to purchase entitlements. Conversely, if the number

---

5/ "Entitlement" meant, for a particular month, the right of the refiner owning the entitlement to include one barrel of deemed old oil in its adjusted crude oil receipts in that month. 10 C.F.R. § 211.62.

6/ "Crude oil runs to stills" was the total number of barrels of crude oil input to distillation units processed by a refiner and measured in accordance with Bureau of Mines Form 6-1300. 10 C.F.R. § 211.62.

7/ "Crude oil receipts" is defined, *infra*, in paragraph 9.

of entitlements issued was greater than the number of barrels of deemed old oil included in a refiner's crude oil receipts, the refiner was required to sell entitlements. 10 C.F.R. § 211.67(b)(1) and (c). The volume of deemed old oil attributed to a refiner in a month was equal to the number of barrels of lower tier crude oil receipts plus a fraction (as specified in each monthly entitlements notice) of the number of barrels of upper tier crude oil included in its crude oil receipts. 10 C.F.R. § 211.67(b)(2). The adjusted deemed old oil receipts, the value of an entitlement for a month, and the entitlement purchase or sale obligation of each refiner were specified in the monthly entitlements notices issued by DOE. 10 C.F.R. § 211.67(i).

9. "Crude oil receipts" was defined in 10 C.F.R. § 211.62, in relevant part, as follows:

> . . . as to a particular refiner, the volume of crude oil (i) booked into its refineries in accordance with accounting procedures generally accepted and consistently and historically applied by the refiner concerned, for its own account or the account of a firm other than a refiner or (ii) if not previously so booked into its refineries, delivered by that refiner for its account to another refiner pursuant to a processing agreement with that other refiner. Crude oil receipts shall not include crude oil received by a refiner for the purpose of processing at its refineries for the account of another refiner. A particular crude oil receipt shall be deemed to have occurred when the related cost is booked into refinery inventory in accordance with accounting procedures generally accepted and consistently and historically applied by the refiner concerned, whether or not such crude oil has been actually received by that refiner . . . .

> Crude oil which has been added by a refiner to its inventory and which is thereafter sold or otherwise disposed of without processing . . . shall be deducted from its crude oil receipts at the time when the related cost is deducted from refinery inventory in accordance with accounting procedures generally accepted and consistently and historically applied by the refiner concerned. The volume of domestic crude oil included in a refiner's crude oil receipts shall be evidenced by and consistent with invoices received with respect to such crude oil receipts.

10. Each refiner was required to file monthly reports on form ERA-49. 10 C.F.R. § 211.66(b) and (h). This form required a refiner to report its crude oil receipts, including lower and upper tier crude oil and any adjustments thereto, runs to stills, products produced, the weighted average costs for various tiers and types of crude oil, volumes processed for its account by another refiner, and volumes processed by it for the account of another refiner.

11. The ERA-49 ("Refiners Monthly Report") forms were required to be filed on or before the fifth day of each month, reporting information for the second month prior to the month in which the report was to be filed. 10 C.F.R. § 211.66(h). The Refiners Monthly Report required an official of the firm to certify to the accuracy of the information therein. 8/ Any errors in a

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8/ The Refiners Monthly Report recited the prohibition against making willfully false statements or representations in violation of 18 U.S.C. § 1001.

Refiners Monthly Report were required to be corrected by filing an amended report for the particular month on the same forms. 10 C.F.R. § 211.67(j).

12. Based upon the information reported by refiners on the ERA-49 forms, the DOE calculated the price of an entitlement and issued entitlements for each month pursuant to a notice published in the Federal Register "issued on the fifteenth day of the second month" following the month in which the purchase or sale obligation arose. The notice included the national domestic crude oil supply ratio (DOSR), each refiner's name and the number of barrels of deemed old oil receipts, and the number of entitlements required to be purchased or sold by each refiner. 10 C.F.R. 211.67(i). No transfer of entitlements was allowed except to a firm which was fulfilling its obligation under section 211.67. Id.

13. Revenues received from the sale of entitlements were to be deducted from and monies paid to purchase entitlements were to be added to a refiner's cost of crude oil purchased or landed in a month in compliance with the general formula of section 212.83(c)(2) of the pricing regulations. 10 C.F.R. § 211.67(m).

14. Each seller of domestic crude oil was required:

> With respect to each sale of domestic crude oil other than an allocation sale pursuant to § 211.65 of Part 211, or a sale in which no volumes of crude oil [were] deemed to have been transferred pursuant

> to § 211.67(g) of Part 211, [to] certify in writing to the purchaser the respective volumes of and respective per barrel prices for the ---
>
> (i) lower tier ("old") . . .;
>
> (ii) upper tier ("new") . . .;
>
> * * *
>
> (iv) stripper well crude oil; and
>
> (v) other domestic crude oils the first sale of which is exempt from the provisions of this part - included in the volume of domestic crude oil so sold. The certification shall also contain a statement that the price charged for the domestic crude oil is no greater than the maximum price permitted pursuant to this part.

10 C.F.R. § 212.131(b)(1).

15. Any practice which constituted a means to obtain a price higher than was permitted by the DOE regulations was a violation of DOE regulations. Such practices included, but were not limited to, "devices making use of inducements, commissions, kickbacks, ... transportation arrangements, premiums, discounts, special privileges, tie-in agreements ...." 10 .C.F.R § 210.62(c).

16. The DOE regulations at 10 C.F.R. § 205.202 provided that:

> Any practice that circumvents or contravenes or results in circumvention or contravention of the requirements of any provision of this chapter . . . is a violation of the FEA regulations stated in this chapter. 9/

9/ 10 C.F.R. § 205.202 concerned violation of the "requirement of any provision of this chapter . . . ." The "chapter" referenced was Chapter II of the DOE regulations, which included Parts 210, 211, and 212 of 10 C.F.R.

IV. AUDIT AND INVESTIGATIVE FINDINGS

1. Canal Refining Company is a closely held corporation with corporate offices in Tulsa, Oklahoma. It was incorporated in April 1949 under the laws of the state of Oklahoma. During the violation period, July 1, 1980 through January 27, 1981, it owned and operated a refinery in Church Point, Louisiana producing gasoline, diesel and fuel oil from low-sulphur (sweet) crude oil. During the reporting period, it had the capacity to refine 7,858 barrels of crude oil per day. As a refiner, Canal was required to participate in the Entitlements Program and to file Refiners Monthly Reports. Canal engaged in resales of crude oil during the violation period.

2. From April 1979 through January 27, 1981, Canal purchased crude oil from its historical suppliers and refined various volumes of that crude oil at its refinery. That crude oil was transported by truck to Canal's refinery at Church Point, Louisiana. The crude oil was delivered into Canal's refinery storage tanks through a settlement meter. See Exhibit 1.

3. From July 1980 through January 1981, Canal filed Refiners Monthly Reports with the DOE and subsequent thereto filed amended reports for August, September, October, November and December 1980. The Refiners Monthly Reports, as amended,

included barrels in crude oil receipts certified as "stripper". See Attachment A and Exhibits 2-8. Of this volume, barrels were certified as stripper to Canal from See ¶¶ 5 and 6, infra.

4. An audit of Canal's crude oil receipts and crude runs to stills disclosed that Canal purchased barrels of lower tier crude oil, and barrels of upper tier crude oil totalling barrels during the violation period from its historical suppliers. See Attachment B and Exhibits 9-15 (Canal purchase/sale journal sheets for July 1980-January 1981). Canal processed these volumes of crude oil at its Church Point refinery. There is no evidence that Canal physically transferred any of the historical volumes received into inventory.

5. During the violation period, Canal invoiced a crude oil reseller, 10/ for barrels of lower tier and barrels of upper tier crude oil, F.O.B. Church Point, Louisiana, on or about the 15th-21st of each month following the month of delivery. Canal charged barrel for "gathering, handling and transportation." See Exhibits 16-21 According to Canal's chief accountant, Canal certified these volumes based upon the tier certifications it received or expected to receive from its historical suppliers, so that Canal could

---

10/ was not an historical crude oil supplier to Canal based upon a review of the period April 1979 through June 1980.

transfer substantially all of its lower and upper tier crude oil purchased during a month. 11/ See Exhibit 23. For example, for July 1980, Canal purchased the following volumes of crude oil from its historical suppliers:

a) barrels of stripper crude oil;

b) barrels of newly discovered crude oil;

c) barrels of market level crude oil;

d) barrels of upper tier crude oil; and

e) barrels of lower tier crude oil.

Canal's invoice to for July deliveries dated August 21, 1980 included: (1) all of the volumes of stripper and newly discovered crude oil which Canal purchased from its historical suppliers; (2) barrels of its total purchases of barrels of market level crude oil; (3) barrels of its total purchases of barrels of upper tier crude oil; and (4) barrels of its total purchases of barrels of lower tier crude oil. See Exhibits 9 and 16. For each month in the reporting period, Canal invoiced for volumes closely approximating its controlled crude oil receipts plus additional barrels of uncontrolled crude

---

11/ The invoices from Canal's historical suppliers certifying the types and tiers of crude oil apparently were received in the month following delivery so that Canal's invoices to could not be sent until Canal knew the approximate volumes of each tier delivered in the prior month.

Energy Daily

915 15th Street, N.W.
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202 638 4260

Tuesday, October 5, 1982

Volume 10, Number 187

ERA Gives Three-Month Reprieve

Oil companies unwilling to settle overcharge cases with the Department of Energy's Economic Regulatory Administration will not see the inside of a courtroom this year. ERA administrator Rayburn Hanzlik told reporters on Monday that his self-imposed September 30 deadline for settlement will be stretched out three months. "We have delayed putting the cases in litigation and have begun a final push to negotiate settlements," Hanzlik said. He explained that it is cheaper to settle by negotiation than by litigation, although litigation remains available to compel compliance.

When he took over at ERA a year ago, Hanzlik's goal was to finish up all the overcharge cases by the end of fiscal 1982 and wipe ERA off the books. He put out the word to companies with notices of possible violations that they should settle up by September 30 or he would see them in court. But by June, Hanzlik said, it was clear that ERA would not be able to clean up all its

(Continued on back page)

ERA: 3-Month Reprieve

(From page 1)

enforcement activity by the end of the fiscal year, but might need an additional quarter of work. "I am saddened to still be sitting here," he said.

Of 1,100 cases at the start of fiscal 1982, Hanzlik said, 600 are settled or in litigation. Of the rest, 380 are "on the threshold of settlement." The remaining 120 are "the hardcore"—mostly involving pricing violations by crude oil resellers. Between 75 and 100 of those are cases where companies are resisting ERA's subpoenas to examine their records.

Of the 20 cases against oil majors that Hanzlik inherited, only half remain, and "all but one or two" are close to being settled, he said. Because the amounts in dispute are enormous, settlement takes time, Hanzlik explained. One case involves over $1 billion, and another—an Exxon case now in negotiation—involves $800 million. "Those are not the sort of thing you settle over a cup of coffee," he remarked.

Regarding another matter on his agenda, Hanzlik told of his recommendation to Energy Secretary James Edwards on handling the $500-million escrow account of funds collected for pricing violations. Hanzlik suggested that $213 million be allocated to the Office of Hearings and Appeals for disbursement to those who can make documented claims.

Of the remaining sum, about $20 million involves cases where the victim of the overcharge can be directly identified—usually schools, churches, small businesses and the like. This money should be disbursed directly to those firms and individuals, Hanzlik said.

Hanzlik thinks most of the rest should go to the states—chiefly, in cases where specific customers can't be identified but geographic markets can be. For the balance, Hanzlik recommends that the money go either to the federal treasury for the Strategic Petroleum Reserve or to the states for energy-related activities. Hanzlik would rather give money to the states than to the oil reserve.

Hanzlik also blasted Congress on Monday for setting a 450 employee "floor" for ERA as part of the fiscal 1982 supplemental appropriation. "I was outraged, to put it mildly," Hanzlik said. "The number had no relation to program requirements and there was no consultation with us." The result, he claimed, is that ERA "now has too many employees for the work."

Because of the congressional floor, ERA had to stop the firing of some of the 148 people the agency had targeted. The reduction-in-force would have reduced the agency's workforce to 400, so Hanzlik had to scramble to return to 450. The agency had 1,100 employees a year ago. As of last Friday, there were 450. Hanzlik told Edwards he hopes the Administration will ask Congress to rescind the floor, "permitting those of us appointed to manage Executive Branch programs the ability to make the management decisions that are properly our responsibility." It would be March at the earliest before a new Congress could act on such a request.

THE OIL DAILY, TUESDAY, OCTOBER 5, 1982 A3

ERA Chief Will Use Extra Staff to Accelerate Settlements

WASHINGTON — Chief Department of Energy regulator Rayburn Hanzlik said he was "outraged" at Congress' insistence that his agency employ more staff than he feels is needed, but added Monday that he would use the extra people to accelerate settlement of remaining enforcement cases.

Congress, in a budget bill, specifically required DOE's Economic Regulatory Administration to maintain a staff of 450 during fiscal 1983, which began Oct. 1. Hanzlik, ERA administrator, said in a news conference that number is about 50 more than he needs to successfully complete the enforcement program.

In a letter to Energy Secretary James B. Edwards, Hanzlik suggested the administration next year act to rescind the extra funds granted the enforcement agency.

ERA has about 500 cases to settle. Approximately 300 of them are near completion, according to Hanzlik. Another 120 cases, mostly involving crude oil resellers, are cases in which the agency has had to subpoena documents or with which it is having other difficulties.

Hanzlik, who has been ERA administrator for one year, has said that he would have remaining enforcement cases ready for litigation by the 1983 fiscal year. The extra staff will enable the agency to continue negotitations with a number of companies instead of going through court proceedings.

The staff size insisted on by Congress goes beyond the level of good management, Hanzlik said. Some of the extra employees will be used to handle natural gas issues. ERA is responsibie for granting natural gas import licenses and is facing a number of issues involving gas imports from Mexico and Canada, and liquefied natural gas purchases from Algeria.

In a recommendation to Edwards regarding distribution of $500 million in settlement money being held in escrow by DOE, Hanzlik suggested that $290 million held by ERA be distributed to overcharged customers as soon as possible. Some customers — mostly large end-users — have already been identified as eligible for some $20 million in refunds.

Another $200 million is being distributed by DOE's Office of Hearings and Appeals. Of the remaining $270 million, part should go to the states with the stipulation that it be used to fund energy programs so governors cannot use the money "to build monuments," Hanzlik said.

He recommended that the rest be left to the secretary's discretion — whether the money should be used for petroleum reserve purchases, go to the U.S. Treasury or be forwarded to the states.

Hanzlik also told reporters that DOE will publish within the next month a proposal for final settlement of the crude oil entitlements program. The notice will be in the form of a proposed rule.

NATIONAL JOURNAL 10/16/82

Energy Production and Pricing

Price violations cases . . . Rayburn Hanzlik, the Energy Department official in charge of cleaning up alleged violations of oil price controls, extended his self-imposed deadline for referring unsettled cases to the Justice Department from Sept. 30 to the end of the year. As head of the Economic Regulatory Administration, Hanzlik inherited scores of cases brought by the Carter Administration in which oil firms were accused of violations amounting to several billion dollars. Most of the biggest cases are still pending.

WEDNESDAY, NOVEMBER 10, 1982

THE WALL STREET JOURNAL

Oil Overcharge Enforcement Fades, Except for a Billion-Dollar Lawsuit

By ANDY PASZTOR and JOHN R. EMSHWILLER
Staff Reporters of THE WALL STREET JOURNAL

The Reagan administration is systematically winding down federal pursuit of petroleum overcharge cases. Investigations of dozens of companies have been quietly dropped, and many other alleged violators have managed to escape government prosecution by stalling or by paying relatively small fines.

But as most enforcement efforts fade away, administration officials are making a last-minute bid to counter critics and try to recover a large chunk of the billions of dollars that consumers were allegedly overcharged over the years.

Yesterday, government prosecutors filed a civil suit in a federal court in Tulsa, Okla., charging that Robert B. Sutton, one of the country's biggest oil resellers during the 1970s, violated federal price controls and overcharged customers by $713 million. Including interest, the complaint seeks a judgment of $1.1 billion.

Investigators' Contentions

Under the price controls, which began after the 1973 oil embargo and finally ended early last year, the price of domestic crude oil was held down. Categories of prices were set up based on the location, age or output of the well the oil came from.

Federal investigators contend that Mr. Sutton's companies were the hub of a complex trading scheme to circumvent controls involving dozens of oil companies. Title to oil shipments would be funneled through one of Mr. Sutton's companies, the officials say. Then the category of the oil would be altered illegally so that it could be sold at a higher price.

Mr. Sutton couldn't be reached for comment. In the past, though, he and his attorneys have denied any wrongdoing.

Some Energy Department officials say that successful prosecution of the Sutton case could lead to cases against companies that did business with Mr. Sutton and generally revive the federal enforcement effort. "This case is a must," says a senior Energy Department official.

But critics in Congress and elsewhere question the administration's overall willingness to aggressively pursue pricing violations. Michigan Rep. John Dingell, the Democratic chairman of the House Energy Committee, asserts that recent personnel shifts and other moves "appear designed to gut the Energy Department's criminal investigative efforts." And Democratic Rep. Albert Gore of Tennessee recently charged that the department is looking for "any transparent excuse to drop cases . . . and to roll over and play dead."

Such allegations are denied by Rayburn Hanzlik, the Reagan appointee who has promised to phase out the government's price-control investigations. "Our focus is on the big companies and the big violations," Mr. Hanzlik recently told reporters. The only cases being dropped, he said, are "the ones that aren't cost-effective to pursue," either because the dollar amounts are "insignificant" or the "probability of proving a violation is low."

Paul Michael, Mr. Hanzlik's top deputy, insists that congressional oversight is so "intense" that "there aren't any cases dropping through the cracks." He reiterates the administration's pledge that violators won't receive any amnesty and that all "meritorious cases" will be settled out of court or will be litigated to the end.

The Energy Department is looking for "any transparent excuse to drop cases . . . and to roll over and play dead," charges Democratic Rep. Albert Gore of Tennessee.

But critics point out that since taking office a little more than a year ago, Mr. Hanzlik has cut his enforcement staff by nearly 50%. The number of field offices is going down to six from nearly four dozen. And the Energy Department's backlog of active cases has shrunk to about 500 from more than 1,000 last November.

Since October 1981, the department's records show that more than 210 overcharge cases, including 53 separate investigations of crude resellers and 35 criminal fraud investigations, have been closed without any civil or administrative charges being filed. Department officials contend they were all weak cases that eventually would have been dropped by any administration.

In addition, the Energy Department withdrew millions of dollars of administrative charges that had been filed against a few other companies, some of which apparently conducted business with Mr. Sutton's companies. Amended overcharge allegations haven't been filed in these cases, although a department spokeswoman predicts they will be. In effect, Mr. Hanzlik disposed of nearly one of every two cases by declining to prosecute anyone.

Some Criticism

Enforcement officials and congressional investigators contend that:

- Many cases were dropped before audits were completed. In a few instances, these officials say, cases were dropped before audits were started.
- Among the companies for which administrative charges were withdrawn are three controlled by C.R. Rittenberry of Oklahoma. The three traded oil with Mr. Sutton's companies. In March 1980, the Energy Department accused them of overcharging customers by $3.4 million by selling "uncertified or miscertified" crude. Those charges haven't been replaced, although department officials say new charges will eventually be filed.

Paul Bloom, who was in charge of investigating major refiners during the Carter administration, maintains he rejected as inadequate at least two settlement offers that were later accepted by Mr. Hanzlik.

Earlier Case

The department has also been criticized for moving too slowly on the Sutton case, which has been under federal investigation for several years. Part of the delay, Energy Department officials say, resulted from the need to await the outcome of an earlier Justice Department case charging Mr. Sutton with criminal violations of price controls.

In May Mr. Sutton was acquitted on the price violation charges, but he was convicted on two counts of obstruction of justice. Sentenced to five years in prison and fined $15,000, he is free pending appeal.

The civil complaint alleges that between 1976 and 1981, Mr. Sutton and three of his companies "falsely certified" about 177.7 million barrels of oil and failed to provide "any certification whatsoever" for another 113.1 million barrels of crude. The suit also charges the defendants failed to maintain, and destroyed, "records they were required by law to maintain."

[After the hearing, Mr. Hanzlik submitted the following statement to the committee.]

RAYBURN HANZLIK
445 SOUTH FIGUEROA STREET, SUITE 2330
LOS ANGELES, CALIFORNIA 90071

November 25, 1985

NOTE TO TERRY JOLLY

Attached is my corrected testimony.

In several instances, the court reporter badly "mangled" my statements, to the point that I cannot even properly reconstruct them. In most cases, I was able to make the changes necessary to repair the statement.

Two of the most difficult statements to correct are on page 204 and 213.

On page 204, lines 9 and 10, the statement "I have resigned from all negotiations" would not have been anything I said, as it has no meaning. Since I can't figure out what the statement should be, I have deleted it.

On page 213, line 15, I have changed the name "Lynch" to "Lorenz." I did this because the next sentence (lines 16 and 17), which I spoke, could not have referred to Mr. Lynch, as I barely know him. I obviously was referring to Lorenz.

Other corrections that may seem to go beyond the bounds of normal corrections are other efforts to correct what appear clearly to me as improper transcriptions.

Call me if you have any questions on this.

Best regards,

Ray Hanzlik

Chairman Roth. We now call forward Joseph Wright, Jr. Do you swear that the testimony you will give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. Wright. I do.

TESTIMONY OF JOSEPH R. WRIGHT, JR., DEPUTY DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, ACCOMPANIED BY JIM HAMILTON, COUNSEL

Chairman Roth. Would you please be seated and introduce the individual accompanying you and explain in what capacity he is here?

Mr. Wright. Yes, sir; this is Mr. Jim Hamilton, my counsel.

Chairman Roth. Would you bring the microphone a little closer?

Mr. Wright. I will repeat. This is Mr. Jim Hamilton. He's my counsel.

Chairman Roth. Mr. Wright, I appreciate your coming back to testify. I do not intend to repeat the questions I posed to you last May 13, the first day of these hearings, unless it appears necessary for some further explanation.

Mr. Wright. Pardon me, Mr. Chairman.

Chairman Roth. Yes, sir?

Mr. Wright. May I make a brief opening statement?

Chairman Roth. Yes, you may.

Mr. Wright. Thank you very much.

The Chairman and the committee, I would normally say that I appreciate the opportunity to appear before you today to discuss this phone call to Mr. Hanzlik in September 1982. But I have heard Senators Eagleton and Gore make accusation and conclusions at the very first of this hearing before they even heard testimony.

Senator Rudman. Could you pull the microphone closer, please, Mr. Wright?

Mr. Wright. Yes, sir. Can you hear me now?

As you are undoubtedly aware, I have pressed for investigation and resolution of this matter with the confidence that when all the facts are farily presented, the allegations and innuendoes against me will be dispelled.

This is already the third congressional hearing on this matter. I testified as honestly as I could at the very hastily called hearing that we had with this committee last time, and I will do so again.

As I testified previously, my call to Mr. Hanzlik was intended to only whether a meeting between representatives of a company in which my family had an interest and DOE officials in Washington could take place.

I stressed to him that I was asking for no special favors and to ensure there would be no misunderstanding, I did ask my Administrative Assistant to listen to my side of the conversation. In other words, Mr. Chairman, I took precautions to ensure that the call would not appear to Mr. Hanzlik to be improper or irregular.

I had met Mr. Hanzlik earlier, as I mentioned, at the last hearing, but we did not discuss the *Anchor* and *Canal* cases or a meeting. As I mentioned in my last testimony—and I want to say this before we begin this—I have learned from, I have learned from this highly unpleasant experience, and I wouldn't make that 1982 call again. While I thought at the time I was taking responsible, careful actions, I can see that events occurred later that were totally beyond my control and beyond my knowledge and beyond my influence have made the action seem, to some people at least, to be different than what they actually were.

I believe, however, that my call would not have appeared improper to anybody who would actually have heard it. A dumb call, Mr. Chairmam, but that's it.

I have spent around 12 years serving the Federal Government. By golly, I strongly believe in effective ethical public service. I did not, nor would I ever remove from that belief or compromise, those principals. After this lengthy investigation and this hearing, I hope that this matter can be laid to rest.

I am confident that precisely as I intended, the very brief contacts that I had with Mr. Hanzlik had no impact on the handling of these cases.

I will be happy to answer as fully as I can any questions the committee may have.

Chairman ROTH. Mr. Wright, when you appeared before this committee on May 9, 1985, just after the Wall Street Journal printed an article about the matters which we have been exploring today, you were invited to return on May 13.

Between May 9 and 13, 1985, when you returned to testify before this committee, what did you do to prepare?

Mr. WRIGHT. Mr. Chairman, I went through as many logs and—meeting logs and telephone logs as I possibly could to try to reconstruct what telephone conversations had taken place and what meetings had taken place. At the time of that hearing, we were discussing something that had occurred 2½ years earlier than that.

So I did as thorough a search as I possibly could within the time period that I had. It took me, I would say, another full 4 weeks to go over 2 years of files to try to determine whether or not there would be anything in there at all that would have an impact on this case that I should respond to the committee with.

So I had very little time, Mr. Chairman, and as you recall, the hearing was scheduled, was—pardon me—I was asked to testify when I came up on a totally different hearing on the Grace Commission. I believe it was the day after the Wall Street Journal article appeared. So I was taken totally by surprise.

Senator EAGLETON. But you didn't testify on that day on that issue.

Mr. WRIGHT. Mr. Eagleton——

Senator EAGLETON. Roth and I agreed not to interrogate you on that day.

Mr. WRIGHT. That is exactly right. I think you gave me 2 or 3 days to prepare.

Senator EAGLETON. Senator Roth scheduled the hearing and I agreed.

Chairman ROTH. So the record is clear, I think we did consult with you, Mr. Wright, at that time, and you agreed with that schedule.

Mr. WRIGHT. Yes, sir. Mr. Chairman, the only point I am making is, at that stage, I started as complete a search as I possibly could.

It was extremely difficult for me to put together a series of events that occurred 2½ years before that, and it took me about another 4½ weeks to reconcile it.

Chairman ROTH. On May 13, you testified about specific times. For example, you said, on page 28 of the transcript, that you talked to Mr. Hanzlik at 10:50 a.m. on September 23, 1982. Am I correct in assuming that the reason you knew that time was because you had looked at the log or phone calls for that day?

That was on page 28 on the transcript.

Mr. WRIGHT. Yes, sir. That comes from the telephone logs at—in my office at the Office of Management and Budget.

Chairman ROTH. And you also testified on May 13 that what prompted your phone call to Mr. Hanzlik was a discussion with your father. That testimony is on page 21 of your transcript.

Mr. Wright, why did you not mention the Coty Dupre phone call to the committee when you testified on May 13 of this year?

Mr. WRIGHT. Mr. Chairman, I'm not exactly sure what I should have mentioned when I wasn't asked a question. One of the things I have always been told when we come up before the committee or any other, you answer questions as fully as you can, and don't go on into other areas that they're not interested in.

I would have assumed, if you would have asked the question at that time—and by the way, at that time, we had just pulled out the logs. I would have been happy to show them to you. I would show them to the investigative staff and everybody else that wants to see them. I have got no problems with that.

Chairman ROTH. Looking at the logs for September 23, 1982, can you tell us when you spoke with Mr. Dupre, and can you tell us the substance of that phone conversation?

Mr. WRIGHT. What with was the date you said?

Chairman ROTH. September 23, 1982.

Mr. WRIGHT. Yes, the 23d. What I've got is that Coty Dupre called me at 10:10 in the morning. I called him back at 10:50 in the morning. He called again at 12:15 in the afternoon, did not reach me. We had not talked up until this point. Then he called again at 2:25 p.m., and we did talk.

Chairman ROTH. What is your relation to Coty Dupre?

Mr. WRIGHT. He works for my father's company. He works for the company. I was going to say my father's company, but my father owns 20 percent of that company.

Chairman ROTH. Yes. Going back a moment to the phone call with Mr. Dupre, could you tell us the substance of the phone conversation?

Mr. WRIGHT. I can give you the tone of the phone conversation, and that was that when Mr. Dupre called, I said that he should be able—free to be able to call Mr. Hanzlik directly and set up a meeting with him and he should do that himself.

Chairman ROTH. During that phone call, did you mention that you had any discussions with Mr. Hanzlik about a possible meeting?

Mr. WRIGHT. Mr. Chairman, I will just have to assume that I probably did, because I had talked to Hanzlik before that.

Chairman ROTH. You talked to Mr. Hanzlik before that?

Mr. WRIGHT. Yes.

Chairman **Roth**. But you have no recollection? You are just making that assumption?

Mr. **Wright**. I am making that assumption. But there would be no reason to hide it from Mr. Dupre.

Chairman **Roth**. Prior to your phone call to Mr. Hanzlik on September 23, 1982, have you ever talked to Mr. Hanzlik by telephone or in person?

Mr. **Wright**. Prior to that phone call?

Chairman **Roth**. That's correct.

Mr. **Wright**. I recall, Mr. Chairman, meeting Mr. Hanzlik at a social event. As I mentioned on pages 104 and 105 of my prior testimony, you asked me why did I call Mr. Hanzlik. I said, "He was the only one at ERA I'd met before." I said that twice.

Now, I recall meeting him at a social event, being introduced, and that was it. Now, I have had to go back through my memory to try and figure out whether or not there was anything that was said at that time at that coctail party because of the time that has elapsed, and when I was going through the possibilities——

Chairman **Roth**. Would you pull the microphone up?

Mr. **Wright**. And in going through the possibilities that one might have at the time, I convinced myself in that short time before that last hearing and since that there was not enough time for us to have any converation at all. I was simply introduced to him, and obviously, I didn't make much of an impact. So I guess my name at the White House didn't impress him with the title or anything, because he didn't even remember it.

And that the only conversation we had on this issue was the telephone conversation regarding the meeting and in the followup conversation that we had saying that it was going to be set up.

Chairman **Roth**. You were here during Mr. Hanzlik's testimony during which he denied or at least said that he has no recollection of such meeting. How do you account for this difference in testimony?

Mr. **Wright**. I account for the difference by the fact that he is obviously a more impressive individual than I am, because I remembered it and he didn't. And that is about all I can say, Mr. Chairman.

And the fact it was a very, to the best of my memory, a very short introduction, and that was it.

Chairman **Roth**. Did you ever tell Mary Ann Ferko that you had discussed with Mr. Hanzlik at that party the problems your family was having with the Department of Energy?

Mr. **Wright**. No, sir. I do not believe that I ever did. But I can understand Miss Ferko's confusion to a certen extent.

Because at the time of the call, she could probably have inferred that we would have said something, because she listened—by the way, Mr. Eagleton, I believe to the entire call.

Now, then when we had gotten these anonymous phone calls which you heard about yesterday, both she and I were very confused. We couldn't even identify, for a day or two, as to why anybody would be investigating me at the Department of Energy. It took awhile to even try and figure what could possibly be there.

As we were going through it, I was hypothesizing then it might have been when I called Mr. Hanzlik on the phone; what were the total number of contacts that I had with him; why, and it was damn difficult to put together after that long a period of time.

So I can understand her confusion on it. But I will say that Maryann—I have not tried to tell her what to say in any testimony. She has the best recollection that she can. I have got the best recollection that she can. She did not disagree with the last testimony I gave, at least not to me or anybody else I'm aware of.

So that's the best answer I can give on that.

Chairman ROTH. Going back to the telephone call to Mr. Hanzlik, did you mention the names Anchor and Canal to him?

Mr. WRIGHT. I have got to say I do not recall, but my best guess is I probably would have said Anchor. I don't think I was even aware that there were two cases, or the nature of them. I have not been aware of these cases in terms of what they entail; why they were brought against the company or what the process is or anything else.

So my guess is, I probably would have said Anchor, because that's the company that I refer to most times.

Chairman ROTH. Did you actually set up a meeting or try to set up a meeting during that conversation?

Mr. WRIGHT. No, sir. That was not my intent. My intent was to find out whether Mr. Hanzlik would have any problem with meeting with them.

Chairman ROTH. Did you——

Mr. WRIGHT. I was not going to set up the meeting myself. And as I told Mr. Dupre, it was totally up to them. It was up to them to handle that.

Chairman ROTH. Did you discuss the problems with Mr. Hanzlik in the Kansas City ERA office?

Mr. WRIGHT. I probably told him that I had heard that they have serious bureaucratic problems, as I mentioned in my testimony last time.

I would not—and I probably said that I had heard that they had a serious backlog. But to go any further beyond that would be just, you know, trying to guess what I said beyond that. I do not believe I went into any detail on it, because I didn't know any detail about it.

Chairman ROTH. Now, as I understand it, you had previously recused yourself from all energy matters. Precisely what had you done in this area?

Mr. WRIGHT. All right. Mr. Chairman, I'm glad you asked that question. I would like to be very, very clear as to what my recusal as. And that is, when I recused myself, it was against all major policy decisions involving—I believe it was oil, or the Department of Energy policy, pricing and regulations at the Office of Management and Budget as the Deputy Director, and then during this interim period between the time when Dave Stockman left and Jim Miller came in, I have always had the responsibility of having to communicate energy matters, but I have never gotten into the policy.

I've never gotten into the decisionmaking as far as I'm aware, and I've got an entire organization over at OMB who is trying to make sure that I do not.

Let me explain what this means. I can be in the White House. We can have a senior staff meeting. An energy situation will come up, like they want a position paper on synfuels. I will go deliver that message to the Office of Management and Budget, but I will not see that paper before it goes. I will have nothing do with the development of it.

I will give you another example. After Mr. Stockman left, I had to come up and do the negotiations with Senator Hatfield on the appropriations. One of the 13, as you are aware, is energy. I communicated the administration's position to Senator Hatfield on that, but I would not discuss it with Senator McClure, because we would have had to get into the programs, and we would have had to get into the policy.

So I have held as best as I know to this day, even after going through a fairly extensive search, to my recusal of having nothing to do with policy decisions affecting the energy business. But I cannot avoid communicating questions and communicating positions to our office and to any agencies or the White House or the Congress. I hope that explains it.

Chairman ROTH. Let me ask you this: In view of that policy, would you not consider it to be somewhat inconsistent for you to have called Mr. Hanzlik on an energy matter?

Mr. WRIGHT. I do not believe so, Mr. Chairman. I was not asking for anything except would he mind meeting with them, and I was very clear, upfront, that it was a family company. I was not asking that any resolution be done. I was not asking that anything happen. We never even discussed it.

First of all, I could not discuss it, because I didn't know anything about it.

So I was not doing anything with any energy policy or was not asking for anything besides, "Would you mind meeting with these folks if they called you?"

Chairman ROTH. Would you not agree at present that such a call at least gave a perception of a conflict?

Mr. WRIGHT. Now may I ask the chairman respectully a perception to whom?

Chairman ROTH. A conflict to the public at large.

Mr. WRIGHT. I do not believe that it gave a perception of conflict to Mr. Hanzlik. I took every precaution of saying exactly what I was asking for and what I was not. I had somebody come in and actually listen to the call. I can't think of any other precaution that you would take to avoid a conflict or a perception of a conflict.

Chairman ROTH. It would be my view that one of the principal purposes of the Executive order is to avoid any appearance of conflict for the public at large so that there is confidence in its Government. Would you agree or disagree with that?

Mr. WRIGHT. That that is the intent of the Executive order?

Chairman ROTH. In part.

Mr. WRIGHT. Yes, sir, I do agree with that.

Chairman ROTH. So would you agree now, based on your experience, that this call may have had such an effect?

Mr. WRIGHT. Mr. Chairman, I am not being stubborn by no means. I said it basically was not the smartest thing I have ever

Senator EAGLETON. So total assets came to $1,700,000, of which Anchor was $700,000.

Mr. WRIGHT. Yes, sir. I believe you will also find there a few liabilities against those which have grown since I have been in Federal service.

Senator EAGLETON. There are some liabilities. You are correct.

I am glad you brought that to our attention, because when you deduct the total liabilities of $631,000, that makes a net of $1,100,000, and thus, Anchor has $700,000 as a percentage of $1,100,000, is, to say the least, significant. It is two-thirds or so. Correct?

Mr. WRIGHT. Yes, sir. If you—you can place the value of that stock, when it is a family-held stock that is not openly traded, at about any number you want to. I would imagine——

Senator EAGLETON. I presume you placed it an honest number when you gave us the statement for your confirmation.

Mr. WRIGHT. The best I could.

Senator EAGLETON. So I'm taking you at your honest word that that stock is worth $700,000 in 1982 when you told us it was worth $700,000 in 1982.

Mr. WRIGHT. That's a good enough figure, sir.

Senator EAGLETON. OK. So $700,000 as a percentage of a net of $1,100,000, so two-thirds or whatever it computes out to be.

The point is, Anchor and its sub, Canal, were of vital financial interest to Joseph Wright, Jr.; correct?

Mr. WRIGHT. I'm not so sure I know how to answer that. Do you want a simple answer or do you want to know the way I feel, Senator, because for some reason, something tells me you don't really want to know how I feel.

I have never looked upon——

Senator EAGLETON. All I want, Mr. Wright, is the truth, and $700,000 as a percentage of $1,100,000 is a very significant percentage, and the answer is self-evident, that the financial viability and the financial future of Anchor was of great significance to Joseph Wright, Jr.

Mr. WRIGHT. Mr. Eagleton, I will tell you, then, I will give you my honest answer. I have never looked upon the family company as any major source of income that I would have. I've never planned on joining the company, and I've never thought that that would make any difference when I'm 65 years old as to how much money I have in the bank or not.

Senator EAGLETON. If you wiped $700,000 off your balance sheet, your net worth would plummet from $1,100,000 to $400,000. Is that not correct?

Mr. WRIGHT. That is correct.

Senator EAGLETON. Would one say in common financial parlance, and OMB being financial terms, that would be a significant dip in one's net worth?

Mr. WRIGHT. It means I would not be able to borrow as much right now, if that's what you're talking about, but I would not look upon that as a catastrophe as I am sitting in my Federal service right now, or in the next job that I plan to go into.

But to answer your question specifically, Would that be a significant dip in the net worth that I report on my balance sheet? Yes, sir, it will.

Senator EAGLETON. I think you are doing yourself a disservice, Mr. Wright. I think you could pick a better time to argue with me, later on in the questioning, than you would argue about that which is self-evident to everybody in this room, including your counsel, that when your net worth is $1,100,000 and $700,000 of it is Anchor, that it is very significant to Joseph Wright, Jr., and if it were, that $700,000 dollars were wipded off the books, that would be a very significant loss to Joseph Wright, Jr.

Everybody in the room knows it, including Mr. Hamilton, a very good lawyer with a lot of common sense who can figure things out.

All right. Is Anchor and Canal significant to your sister? Does she own an equal amount of shares?

Mr. WRIGHT. Mr. Eagleton, I'm not going to answer for my sister. I would imagine that it probably would be, but I'm not going to answer for that.

Senator EAGLETON. I think we have the records, don't we?

The family owns 22 percent of Anchor and its subs, doesn't it, the Wright family, various members?

Mr. WRIGHT. No, sir; my understanding is the Wright family owns 20 percent.

Senator EAGLETON. Twenty percent. All right. How much does Joseph Wright, Sr, own?

Mr. WRIGHT. My understanding is that 20 percent is broken down into—there is a trust in Joseph Wright, Sr.'s name of 65 shares. I have 22 shares; each of my sisters have 19 shares; and their five children have three shares each.

Senator EAGLETON. How many sisters do you have?

Mr. WRIGHT. Two.

Senator EAGLETON. And your 22 shares is about 3 percent of Anchor; right? Do you have that in the record?

Mr. WRIGHT. I believe that there are 650 total shares outstanding.

Senator EAGLETON. That's about right, 3 percent. So you father's trust is how many shares? Your father's trust is how many shares; 65?

Mr. WRIGHT. 65 shares.

Senator EAGLETON. All right. So your father owns triple what you own. So in 1982, the value of your shares was $700,000, and the value of his shares in 1982 was $2,100,000.

Has your father devoted a great deal of his life to Anchor and Canal?

Mr. WRIGHT. Yes, sir.

Senator EAGLETON. There is another family that owns a large interest in there. Did they work together in founding it; Mockley?

Mr. WRIGHT. Mockleys. My understanding is that Mr. Mockley's family founded the company or formed it, and I can't go back and give you all the history for it; that my father came in as an engineer working for Mr. Mockley, whatever, and was hired by the company; and then eventually ended up, after Mr. Mockley died, running the company.

Senator EAGLETON. Was your father young, then, when he went to the work for the Mockleys and Anchor?

Mr. WRIGHT. Well, I can't give you the date. If I recall——

Senator EAGLETON. Not the exact date. Was he in his twenties, his thirties. Was he married or single?

Mr. WRIGHT. No, no. The best I can recall, I was probably something like around 10 years old.

Senator EAGLETON. You were about 10.

Mr. WRIGHT. I am 47 now.

Senator EAGLETON. And your father then, from the time you were 10, earned his principal source of income from Anchor? That was his main job?

Mr. WRIGHT. Yes, sir.

Senator EAGLETON. And you and your sisters were educated and went to school, college. Did you get an advanced degree?

Mr. WRIGHT. Yes, sir.

Senator EAGLETON. Did Anchor grow, develop as a company through those years during your boyhood as you were growing up?

Mr. WRIGHT. I would assume it did; yes.

Senator EAGLETON. Next to his family, is Anchor probably the closest thing to your father's heart?

Mr. WRIGHT. I understand what you're trying to do with the question, Mr. Eagleton. I would say——

Senator EAGLETON. No, it is not what I am trying to do, Mr. Wright.

Mr. WRIGHT. I don't know whether I should be honest with you or not. God is the closest thing to my father's heart, and I will be damned if I know how to answer your questions.

Senator EAGLETON. What are his principal preoccupations?

Mr. WRIGHT. Right now?

Senator EAGLETON. No, back in 1982. That is the real key time, back in 1982.

Mr. WRIGHT. I would say his family, his grandchildren, his company, hunting and fishing, maybe a little golf. I'm not going to put it in a priority for you.

Senator EAGLETON. All right. That is OK. Now, when did you first learn from your father that Anchor had some difficulties, or however it was described, with ERA?

Mr. WRIGHT. I can't tell you when I first heard from my father about that.

Senator EAGLETON. Do you——

Mr. WRIGHT. My father——

Senator EAGLETON. Go ahead.

Mr. WRIGHT. If I may go on—continually, complains about the Federal Government. My father has been complaining about the Federal Government since as long as I possibly can remember.

Senator EAGLETON. You ought to hear from my father-in-law. You would think Calvin Coolidge was a rabbi. Back in 1982, in that timeframe, let's say 1981 and 1982, you just entered the Reagan administration; you were over in the Department of Commerce. How often did you talk with your father on the phone?

Mr. WRIGHT. Not often enough, because I would normally get a call asking why I hadn't called my mother.

Senator EAGLETON. Would you talk to him once a week?

Mr. WRIGHT. I doubt it.

Senator EAGLETON. Twice a month?

Mr. WRIGHT. Mr. Eagleton, I have no idea. You're asking me how often I talk to my father. Are you asking me if I'm a good son? In what context are you asking me?

Senator EAGLETON. In whatever context you desire, Mr. Wright. I am just asking for communications over the telephone with your father in the timeframe of 1981-82.

Mr. WRIGHT. I would say I probably talked to him in that timeframe, probably every 1½ weeks, every 2 weeks, something like that.

Senator EAGLETON. That is all right. Miss Ferko says once a week, but there is no big difference between 10 days and 1 week. That is perfectly fine.

Now, would you meet with your father at Christmas time and birthdays and Thanksgiving or any other holiday kind of celebration?

Mr. WRIGHT. Sure.

Senator EAGLETON. For instance, when you met with him in 1981 at celebrations, did the name Anchor ever come up with your dad?

Mr. WRIGHT. Did it ever—I doubt if—sure. Would the word Anchor have come up, sure. It would be a natural——

Senator EAGLETON. Did you ever ask, "How's Anchor doing"?

Mr. WRIGHT. I would normally not say, "How's Anchor doing?" Mr. Eagleton, because—and my father would normally not say, "How's OMB doing?" But——

Senator EAGLETON. Well, your father was not a shareholder in OMB. You were a very significant, $700,000 shareholder. That was better than two-thirds net worth.

Mr. WRIGHT. I understand your question, Mr. Eagleton, and I understand it. All I am saying, my father as a Federal taxpayer sure felt he had a share in the Federal Government.

Senator EAGLETON. You wouldn't ask your dad, "How is old Anchor doing, the family company that sent me through school since I was 10 years of age?" Let me ask you about it.

Did you have conversations?

Mr. WRIGHT. Sure, we would have casual conversations, but we would not get into the specifics that you are talking about for several reasons. One, I didn't want to get into a huge complaining exercise about the Federal Government.

Senator EAGLETON. Every time the world Anchor was mentioned, your father would rebuff your question, comment, and launch off on the Federal Government?

Mr. WRIGHT. We really didn't get into any detailed conversations about the family company. You know, it's—it was not because of the fact that I didn't have—well, I didn't really particularly have a curiosity, but it is also one in which he didn't particularly get into it. We shared very few times, and he and I were not going to go off and to have a side conversation in terms of how the family company is doing, and if we would, mom would have broken it up pretty fast.

Senator EAGLETON. Is Anchor significant to your sisters?

Mr. WRIGHT. You asked me that, and I told you I can't tell you.

Senator EAGLETON. In terms of their well-being?

Mr. WRIGHT. Uh, one of my sisters is married to a gentleman who has his own company and I would say it is probably not that significant to her. The other one is married to somebody who had been a judge in Oklahoma and is now a lawyer in Oklahoma, and I would say probably it is a little bit more significant to her.

Senator EAGLETON. Then would it be fair to say, in terms of what Anchor means to the Wright family, would this be a fair, cryptic summary: To Joseph Wright, Sr., it was very significant; to one sister, married to the lawyer, it was reasonably significant; and another sister, married to the gentleman with his own company, not all that significant; and to Joseph Wright, Jr., two-thirds of his net worth? Would that be a fair summation?

Mr. WRIGHT. Sure.

Senator EAGLETON. Now, moving on to 1982, did small refineries start experiencing some financial difficulties in the 1981–82 period?

Mr. WRIGHT. Mr. Eagleton, you're going to have to talk to somebody who knows the oil and gas business during that time period better than I do. I was not dealing in the oil and gas business at that time. I was not reading newsletters on it; I was not looking at policy documents. I was reasonably isolated from the industry at that time.

If you would hear my father speak, that they were having problems every single year since I had ever known him.

Senator EAGLETON. Well, you were sort of involved in the oil and gas business. You were the dismantler of the Department of Energy, weren't you?

Mr. WRIGHT. No, sir; I don't believe so at all. As a matter of fact——

Senator EAGLETON. What is this thing you were in charge of, chairman of the steering group, to dismantle the Energy Department. What is that? 1981. Aren't you? Is that right that you were the chairman of a steering group to dismantle the Energy Department in late 1981?

Mr. WRIGHT. There was an administration initiative, as you know, as I testified, with three Cabinet officers before this committee in 1983, and, at that time, I was head of the staff group to reorganize the Department of Energy and the Department of Commerce.

Senator EAGLETON. Reorganize is a nice word.

Mr. HAMILTON. Mr. Chairman, may I ask my client be allowed to finish his answers? He is under oath. Everything that he says here is going to be looked at with great scrutiny.

Chairman ROTH. The point is well taken.

Senator EAGLETON. It was to do away with the Department of Energy. You have been around town, Mr. Hamilton.

Mr. HAMILTON. I am not testifying, Senator Eagleton.

Chairman ROTH. Mr. Wright, would you continue?

Mr. WRIGHT. Thank you, Mr. Chairman.

I would like to read from a document that was on March 2, if I may. This was done in 1982, and, if I remember correctly, that I probably reviewed this entire document. I would be more than happy to present it for the record, if you wish, because I'm sure the committee has seen it before. It is called "Proposed Reorganization of Energy Functions."

I would just like to quote one paragraph, if I may, for you.

> The crucial difference between President Reagan's proposal and the one establishing DOE is not that the current one would abolish the Department of Energy. Rather, the current proposal would treat Energy at the Cabinet level for what it truly is, a critical and important component of our overall economy, but not an isolated and distinctive phenomenon.

I personally did not look upon this as dismantling the Department of Energy. I did look upon it as putting together a Department that made a lot of sense, because Commerce and Energy have many things in common, and I believe that Energy functions would have been better served if that reorganization would have gone through, and I came up and testified before this committee exactly to that effect.

Senator EAGLETON. Was there a similar proposal floating around in that timeframe to massage the Department of Education?

Mr. WRIGHT. I don't know what you mean by massage, but was there a proposal——

Senator EAGLETON. Well, to dismantle the Department of Education, or was that going to be a smooth blend in like Energy is going to blend in Commerce?

Mr. WRIGHT. I do not believe that you can compare Energy and Education, but the President——

Senator EAGLETON. But the departments were both going to disappear as separate——

Mr. WRIGHT. As separate Cabinet departments; yes, sir.

Senator EAGLETON. See why that is important? In order to participate in that staff group, in order to chair it, you have to know something about the industry that is being regulated by the department in question. You can't play blind man's bluff and say, "I know nothing about oil and gas. I don't even listen to it when dad raises it. I know nothing about it. I have recused myself, but I'm going to study how to do away with the very department that regulates oil and gas."

I doesn't fit, does it?

Mr. WRIGHT. Yes, sir, it certainly does. As far as I'm concerned, putting together the Department reorganization was simply moving boxes around, and you will see, when I testified before this particular committee, I believe it was on June 24, 1982, I said, "As we developed our reorganization implementation plans, we have been careful to preserve, wherever possible, and strengthen the critical features of the Federal Energy Program."

Now, basically, all I did was say that my function as chairing that steering group is to make sure that the reorganizational efforts were done.

As far as I was concerned, it was moving boxes around and cutting out overhead.

Senator EAGLETON. All right. Well, we will move on.

On December 17, 1981, the White House Office of Press Secretary, quoting Secretary Edwards, reading the statement of the President of the United States, for whom you work; here's the President: "Last September in my economic message, I announced that we would develop a plan for dismantling the Department of Energy."

It was the word that was used by every Senator on the Hill.

I won't force him to answer. You guys were going to dismantle the Department of Energy. You didn't have any knowledge about energy, but did you, in 1982, or do you now, in 1985, own stock in Oxidental Petroleum?

Mr. WRIGHT. Did I then? I believe that's right, sir. I don't now.

Senator EAGLETON. The Corley Gas Well.

Mr. WRIGHT. Pardon me?

Senator EAGLETON. In Cherokee County, TX?

Mr. WRIGHT. I would like to correct that. I sold off my nonenergy stock. I still have the energy stock.

Senator EAGLETON. You sold off your nonenergy stock and kept your energy stock.

Mr. WRIGHT. Because I was recused in this area. Because I was recused in this area.

Senator EAGLETON. OK, but you own stock in Oxidental Petroleum?

Mr. WRIGHT. Yes, sir.

Senator EAGLETON. Do you follow the stock as it goes up and down?

Mr. WRIGHT. I think I have got so few shares in it. I don't even pay attention to it. I didn't even buy that stock.

Senator EAGLETON. You own it.

Mr. WRIGHT. Yes, sir. It was bought by my father and given to me.

Senator EAGLETON. Coralee Gas Well in Cherokee, TX?

Mr. WRIGHT. That, if I'm correct, is not stock; that is a partnership that we got through Natural Gas Anadarho in a drilling well venture. It has nothing to do with stock, I don't believe.

Senator EAGLETON. That is partnership. Do you have partnership in the Ezieiles 90 gas well, Oetry, TX?

Mr. WRIGHT. Same thing.

Senator EAGLETON. Do you have partnership in Elite, Eagle Eye, TX?

Mr. WRIGHT. Mr. Eagleton, I am about—and I don't know the exact number—my guess is I'm in about 25 of those.

Senator EAGLETON. Twenty-five in gas well kinds of things?

Mr. WRIGHT. Sure.

Senator EAGLETON. And Carnel and Dexy, Dudley, Herman Leland, and there are a bunch of others. You don't follow the energy industry, because you have recused that from your mind, yet you own $700,000 worth of Anchor and you own—what did you say—20 or 30 gas wells, plus Oxidental? It doesn't fit.

Mr. WRIGHT. It does to me.

Senator EAGLETON. All right.

Chairman ROTH. The time of the Senator has expired.

Senator Rudman.

Senator RUDMAN. I thank you, Mr. Chairman.

Mr. Wright, you have been up before many committees of Congress many times. Senate hearings are supposed to do a number of things. They are supposed to find facts, educate, provide light entertainment for the populus. [Laughter.] And this hearing has done little of all three.

I want to come down to a very basic point: The reason these hearings were called was because there were some, based upon some allegations, that evidence brought out in this hearing would either prove perjury on the part of five witnesses or it would prove a conspiracy on your part, I assume, with some people who have been witnesses.

I don't think any fair person is going to reach the conclusion that that happened. I think it is obvious that almost everyone that that didn't happen.

But I want to get to another point. You said at the outset of your comments to the chairman that you would not, knowing what you know now, make that call again. Did I understand you correctly?

Mr. WRIGHT. You sure did, Senator. I wouldn't come anywhere near that phone again.

Senator RUDMAN. I believe you said you wouldn't because what has developed, which was beyond your control, has made this into something that it never started out to be. Did I understand your answer correctly? Is that what you said?

Mr. WRIGHT. Yes, sir.

Senator RUDMAN. Well, I want to make the observation, that I am not sure whether you want to reconsider this or not, but considering what happened, don't you really think that the Executive order that you operate under properly, fairly looked at might say, at the very least, call it poor judgment, call it inadvertence, wouldn't you have to say in retrospect, looking at the whole picture—not that you had any intention. You are innocent as far as any intention—that you did, unfortunately, end up here at least with the appearance to the uninformed public creating the appearance of some conflict.

Senator EAGLETON. To the informed public, too.

Senator RUDMAN. Pardon?

Senator EAGLETON. To the informed public, too.

Senator RUDMAN. I didn't say the informed public; I said the general public.

Senator EAGLETON. You said uninformed public.

Senator RUDMAN. Uninformed, informed, those who care, those who don't. Don't you think that just looking at it? I would like to get you to answer that question. It is a fair question. It is not asked with any animosity. I think you know that, Mr. Wright. You and I know each other. Don't you think at the very least, that yes; there was an appearance here?

Mr. WRIGHT. Senator, I can totally appreciate your point of view, and if I were probably sitting up there, I would feel exactly the same way, if I can answer the question that way. That certainly was not my intent.

Senator RUDMAN. I didn't ask for your intent. I know it. I want to stipulate for the record, I know you; I have read this record. I have looked at it. I don't think you had any intent whatsoever, and nobody acted on your phone call in any unusual way.

All I am saying is that looking at it as an objective person, Deputy Director of OMB, a man with major responsibilities, do you think that the general public would fairly draw, inference that there was an appearance of impropriety, although inadvertent? I will give you that question.

Mr. WRIGHT. I can understand your point of view. I'll be honest with you. I have a reluctance to say that. I would guess I would say yes; there is, if you really want to press me to the wall on it.

Senator RUDMAN. I do. I would like you to answer the question.

Mr. WRIGHT. Yes, sir; I believe there was, but that was not my intent.

Senator RUDMAN. All right. Having said that, Mr. Wright, I want to just make an observation to you: I have watched you in your present position. I have dealt with you. I know something about you. I have listened to all of the testimony here. I think some of the comments from up here have been decidedly unfair to the witnesses and to you, and since nobody reads our reports, and this is probably the last time I will speak on this panel, which I have been a member of 4, 5 years, I want to give you my observations.

One, you inadvertently got yourself in a situation of creating to the general public an appearance of a conflict of interest; two, you had no intention of doing so; three, what you did had no effect whatsoever on the cases; and four, you are a person of integrity who, unfortunately, made a mistake in judgment.

I have no other questions or comments.

Chairman ROTH. Thank you, Senator Rudman.

Senator Eagleton?

Senator EAGLETON. Yes. I will reserve, Mr. Chairman, my closing summation to conclusion of the evidence, and I will add some commentary, as well, on Mr. Wright's activity and what flowed therefrom.

What I established in the first group of minutes on the question is motive. I wasn't just dancing around with Mr. Wright. My purpose was to establish the motive for what he did, and the motive is clear. His family is deeply involved in an oil company, refining company, oil and gas. The facts show in 1981 and 1982, the industry was declining. The facts showed in that first line of questioning that he does talk to his father. Common sense tells you somewhere along the line you talk about Anchor, the lifeblood of the Wright family. Common sense tells you that.

So there was motive. Now, in 1982, did your father start pestering you with phone calls, Mr. Wright, about Anchor?

Mr. WRIGHT. That is not the right word to use.

Senator EAGLETON. What word would you use?

Mr. WRIGHT. My father had continually talked about the Federal Government and the problems he had with the Federal Government for years. I would not say that he had suddenly started pestering me about it. He had been talking about it for years.

Senator EAGLETON. All right. You see, earlier, you were talking with your father about the Federal Government. Now you are talking with your father about problems your father has had with the Federal Government. What problems did he tell you about?

Mr. WRIGHT. Department of Energy, the problems; the Internal Revenue Service. That was the No. 1, continually; the—I don't know whether OSHA was giving him problems or not. My guess is that probably; he just was a farmer-turned-small-oil-man who really did not like the Federal Government and still doesn't.

Senator EAGLETON. In the area of problems, he did include the Department of Energy.

Mr. WRIGHT. Of course.

Senator EAGLETON. That is what I understood, and did he specifically refer to investigative audits by ERA?

Mr. WRIGHT. He said he was having problems, and I—now I'm going back, like, 4 or 5 years.

Senator EAGLETON. Yes.

Mr. WRIGHT. He said he was having problems where they were coming in with either pricing cases or pricing violations or whatever it was, but never went into any detail with me, and the reason I can say that for sure is because I didn't even understand how the process worked or what the violations were.

And if you will remember, when I first came before this committee, I thought they were violations at the gasoline pump for overcharging consumers.

So that's the only reason I can say he never really got into any detail with me. I wasn't running part of the company.

Senator EAGLETON. Did he ever mention Energy Regulatory Agency or the acronym ERA?

Mr. WRIGHT. I do not believe so, Mr. Eagleton. As far as he was concerned, the Department of Energy was all the departments of energy, was all the Federal Government.

Senator EAGLETON. If he never mentioned it to you and you knew nothing about the problem, how did you call the ERA and Mr. Hanzlik?

Mr. WRIGHT. By the way, he could have mentioned ERA, but I don't recall at all him specifically saying what arm it was.

Senator EAGLETON. If he didn't mention it, how did you call ERA?

Mr. WRIGHT. Because at that time, what he was asking for, "Isn't there somebody in Washington that you can get us an appointment with that we can talk to?"

Senator EAGLETON. And by blind luck, you called Ray Hanzlik at ERA who had jurisdiction over the Anchor and Canal cases, just threw the thing up to the dart board and it hit the right spot?

Mr. WRIGHT. Now, Mr. Eagleton, you know better than that.

Senator EAGLETON. I do.

Mr. WRIGHT. I do, too.

Senator EAGLETON. You know who called and for what reason.

Mr. WRIGHT. I had my secretary dial the number.

Chairman ROTH. Order.

Senator EAGLETON. See, I don't think you are doing yourself any good arguing about things that you know the uninformed public or the informed public knows.

Mr. WRIGHT. You are asking me to go——

Senator EAGLETON. You knew Anchor and Canal had cases over at ERA?

Mr. WRIGHT. No, sir; as a matter of fact, I did not know they had cases. I thought they had one.

Senator EAGLETON. You thought won?

Mr. WRIGHT. One.

Senator EAGLETON. Oh.

Mr. WRIGHT. I didn't know how these cases worked.

Senator EAGLETON. Oh, oh. Anchor and Canal had won, and, therefore, they wanted a meeting with the Federal Government to share the winnings? What is the meeting with the Federal Government for once you have won?

Mr. **Wright**. No; I said I thought they had one case.

Senator **Eagleton**. One case. All right. Then *Anchor-Canal case*, you know it was over in ERA.

Mr. **Wright**. Sure.

Senator **Eagleton**. And you talked to your father about it and your father talked to you.

Mr. **Wright**. I talked to my father about the problems he was having, but not about the cases in detail.

Senator **Eagleton**. Not in detail, but he was having problems with Anchor-Canal, a case at ERA.

Mr. **Wright**. A case with the Department of Energy.

Senator **Eagleton**. Department of Energy. And somehow, Ray Hanzlik's name popped into your head. OK, we'll get to that.

How many times during the week preceding—during the 2 weeks preceding September 23 did your father call you?

Mr. **Wright**. I have no idea, Senator.

Senator **Eagleton**. Several?

Mr. **Wright**. I have no idea.

Senator **Eagleton**. More than one?

Mr. **Wright**. How many times do I have to answer it the same way?

Senator **Eagleton**. Until you give me an honest one.

Mr. **Wright**. I'm giving you an honest one.

Senator **Eagleton**. Did you talk to your father during the month of September?

Mr. **Wright**. I'm sure.

Senator **Eagleton**. Prior to September 23 about Anchor-Canal having a case over in the Energy Department at ERA?

Mr. **Wright**. I am sure that I talked to him about it. I can't tell you exactly when, and I'm sure that what he said was, it was there was some problems that they were having; they could not find anybody to talk to to get the cases resolved; could I please go on ahead and see if they could not meet with somebody in Washington.

But I cannot tell you when that conversation was. I don't take notes with conversations with my father.

Senator **Eagleton**. When you were interviewed by the majority staff, you said this: His father persists in bugging him about the companies. Let me read the whole quote. This is your interview with the majority staff, the Roth people.

"Wright's father always bitched about the Government." You said that.

> He particularly complained about how the Government was threatening his oil companies during the summer of 1982. His father was complaining that he couldn't get to talk to anyone or whatever. His father mentioned that a few times. He, Joe Wright, would speak to his father rather regularly, and they would talk about family matters, oil and gas drilling ventures, but not about Anchor and Canal.
>
> The reason Wright does not talk about Anchor and Canal with his father is because he is not interested and it is inappropriate for him to discuss the company's dealings with the Government. But his father persists in bugging him about the companies. His father once called him and said that Coty Dupre was in town. Wright called him back, loudly, and said, "Don't talk to me," and that call was November 8, 1983.

Do you remember giving that interview?

Mr. **Wright**. Yes, sir.

Senator **Eagleton**. Then further on, the interview said, "Wright thinks thats the request from his father that prompted the phone call to Hanzlik was made by telephone or perhaps his father called him at home."

Do you remember giving that statement?

Mr. **Wright**. Sure.

Senator **Eagleton**. OK. So it is your father that put you up to the call to Hanzlik. We could have had that 10 minutes ago if you would just given me an answer.

Mr. **Wright**. Senator, I think I said that all along, that I did it at the request of my father calling, isn't there somebody in Washington that his company could meet with.

Senator **Eagleton**. It was your father's company with deep family involvement. All right. Now, let's get to the date of September 23. We all have the telephone log of that date which indicates four calls, presumably only one completed at 2:25 p.m. The curious thing about that, if you listen to Coty Dupre, Coty Dupre says that he placed, he, Coty, placed that final call at 2:25 and that he placed it for the purpose of asking Joe to get a meeting with Hanzlik.

Lo and behold, Joe had already talked to Hanzlik that very day. Joe had already arranged a meeting. However, Coty doesn't remember Joe telling him. Coty has got a good memory; sharp guy; company at stake; he has worked for them 31 years since you were 16 years of age.

Coty says, "Joe, you got to get us a meeting with Hanzlik over there at ERA," and Joe either tells him, "Gee, I'll try to arrange it," when it's already arranged, or Joe says, "Coty, I have already arranged it," and Coty can't remember.

Therefore, that doesn't fly. I submit what happened on the day of September 23 is that there were two phone calls completed, not one, two; that Coty, yes, asked for me in an early call, and then Joe got a hold of Hanzlik and arranged the meeting, and then Joe called Coty back and said, "Ray, mission accomplished—" or, "Coty, mission accomplished."

If that isn't the case, then Coty's testimony of yesterday doesn't make sense on this issue. You were here when Coty testified yesterday. What do you say?

Mr. **Wright**. What I say is that there's two points that you brought up, Senator, that I disagree with, if I may.

First, you said that a meeting was set up. No, sir; I disagree with that. A meeting was not set up, and that's an important point. I did not set up a meeting. I asked Mr. Hanzlik whether or not he would mind meeting.

Senator **Eagleton**. Meeting.

Mr. **Wright**. There's a big difference in my mind between those two.

Second is, to the best of my recollection I was responding to a request, not from Coty, but from my father. This is what I've testified to, and that's the best of my recollection. I'm sure that Coty was calling also after talking to my father, and again, to the best of my recollection is, I talked to him one time.

The Joe Wright thing was just a mitigated irrelevancy.

And why do people commit perjury? Some people commit perjury when they are in a conspiracy, and the way you break a conspiracy, the way you break a conspiracy, and I was prosecutor and Mr. Rudman was prosecutor, is you convene a grand jury and throw the case into the grand jury, and then you begin, as Mr. Hamilton knows better than all, the immunization of one or more of the coconspirators. Mr. Hamilton is an expert on what happended on Watergate. Earl Silverman threw in a second-rate burglary case into the grand jury, and then it started to fold, McCord, Dean. We now know that by the name Watergate. This isn't Watergate. This is just a simple garden variety fix. And there are conspirators to the fix.

Motive has been established. September 23. How well, prior to September 23, did you know Coty Dupre, Mr. Wright?

Mr. WRIGHT. Senator, I would guess, and I have to say this is a guess——

Senator EAGLETON. How well, not how long.

Mr. WRIGHT. How well?

Senator EAGLETON. How well?

Mr. WRIGHT. I didn't know him that well. Let me tell you the total number of contacts that I had had with Mr. Dupre as to the best of my knowledge. I do remember going down to Mexico on a hunting trip with my father one time with him. I could have been in another hunting trip where we went down to Mission, TX, hunting white wing. We were with a larger group. I don't recall that. I do recall having dinner with him one time in Colorado, and then maybe one or two times beyond that, and then I would say that is probably awfully close to it for a period of, say, 10 years. That's my best recollection.

Senator EAGLETON. But over and beyond these contacts that you have described and you said there were three hunting trips, but that's not right. Dupre said that. I'm not going to quibble about how many hunting trips, but over and beyond what contacts, trips, dinners, and what-have-you, you full well knew that he had been the local, devoted, and ever faithful employee of your father, helping him to run Anchor and Canal for 31 years. You knew that.

Mr. WRIGHT. No, sir, I did not know he had been with the company for 31 years.

Senator EAGLETON. Did you know he had been there for a long time, many years?

Mr. WRIGHT. My best recollection is the first time I probably heard his name was approximately 10 years ago, but that is absolutely a wild guess.

Senator EAGLETON. Well, did you know he was president of Canal?

Mr. WRIGHT. Yes, sir. I found out recently during this investigation he was. But if you are saying that—I don't know when he was made president of Canal.

Senator EAGLETON. Did you know he was vice president of Anchor?

Mr. WRIGHT. I found out during this investigation he was.

Senator EAGLETON. When he called you that day and one of your secretaries said you had a call, or something, at 10 in the morning, you knew who Coty Dupre was?

Mr. WRIGHT. Sure, sure, I knew who he was.

Senator EAGLETON. And you knew he was closely connected with the oil company?

Mr. WRIGHT. Oh, sure. Absolutely. May I finish, please? May I finish?

Senator EAGLETON. Sure.

Mr. WRIGHT. As far as I knew he pretty much ran the marketing operation down in Canal, which is the headquarters down in Louisiana, and he pretty well ran that operation there.

Now, I have no idea when he was made president of Canal, when he was formally given that title.

Senator EAGLETON. And you knew when you heard he was calling, chances were certain that he was calling about Anchor and Canal business?

Mr. WRIGHT. Well, I sure assumed that, because my father before that had asked me whether or not I couldn't go ahead and call and see if there's somebody in Washington that they could meet with.

Senator EAGLETON. Why in your opinion did Coty testify as he did yesterday about the return column? He couldn't remember that you told him you had already talked to Ray.

Mr. WRIGHT. Mr. Eagleton, I really haven't had a chance to talk to other people.

Senator EAGLETON. You are listening to what they said.

Mr. WRIGHT. I understand. You are asking me what my impression is of what he said. Probably, because I was reasonably careful, and I'm just guessing, I was reasonably careful in what I told him, and I just said, "You can feel free to go on ahead and call Mr. Hanzlik directly."

I have made it very, very clear to them that they are on their own, that I'm not helping them.

Senator EAGLETON. You heard us question Miss Ferko yesterday, and Miss Bobby Kammerman, an investigator for Senator Roth, interviewed Miss Ferko, and asked about this prior meeting between you and Mr. Hanzlik.

The timeframe of that interview, I think, was June of this year. We must bear in mind thay you and Miss Ferko were really up to speed on the facts by June, because according to her testimony, to use her work, you had had a reconstruction, yes, that's the word, reconstruction after those anonymous phone calls. Miss Ferko and Joe sat down and reconstructed, and she testified and you testified that you had another reconstruction over the weekend between the hearing when you were testifying here on the Grace Commission and the next week that you came back on the Joe Wright matter, and you recontructed then.

Then there was a reconstruction after that Wright hearing. So you and Miss Ferko had been reconstructing the facts, getting data, time sheets, telephone sheets, thinking this all through, get it right, get it fair. So then Miss Ferko, with all that preparation, gives Bobby Kammerman an interview on June 4. She has thought it all out, discussed it all with you, all the data, went through the files, et cetera. She has been with you for, I think, 14 years or something and served in the Federal Government 31 years, conscientious person.

She said, well, Joe explains that he met Ray at a cocktail party, perhaps the week or so before, and had mentioned something about his father having asked him to do something to get the thing moving. At the party, Joe asked Ray if he knew that there was a backlog in the field and Ray acknowledged that things were very slow there. They agreed that one would call the other and Joe said that he mentioned his father had been bugging him.

Now, with all of that reconstruction, it wasn't like she was summoned to somewhere at the spur of the moment. With all of that thoughful reconstruction, time and time again, why would Miss Ferko say that it didn't occur?

Mr. Wright. Senator, because Miss Ferko and I have a different understanding and a different recollection of exactly what happened. I have not told her what to tell the investigators. I have not told her what to testify before this committee. And at that time, I can understand the confusion. When I was calling and talking to Ray and going through this process in terms of—you can call it the four points. I remember it that way. It wasn't stated in exactly four points, but also, in my reconstruction, I was the one that was at the cocktail party or the reception or whatever it was.

As I was going back in my memory, Senator, there simply wasn't time to have a conversation. It was a simple introduction. Then when we were going back to our first reconstruction of what happened after we got the anonymous telephone calls, one of the possibilities I was trying to figure out what happened is I may have said, now, did I say anything to him at that time? I would understand her confusion. But I don't have a problem with she and I coming up and having different opinions on it. Because I have not told her what to say.

As I testified before, and I thought it out carefully, I have eliminated all the other possibilites, and I feel very comfortable, right now, as I testified last time, that I had met Ray Hanzlik before; that I called him on the phone; approximately what was said during that phone conversation; that when the phone was dialed, I ask that she be brought in. Her office is right across the hall from me. She had heard the phone conversation, and that was it. I feel very comfortable with that.

But it has taken awhile for me to go back that many years.

Senator EAGLETON. Mr. Chairman, just to ease your mind, I will have one very lengthy final question of Mr. Wright, which I will ask him to follow very closely. As far as I know, that will be my last question.

Chairman ROTH. How long will that question take?

Senator Eagleton. Oh, we will be out well before 11 o'clock. [Laughter.]

Senator RUDMAN. How about the 10 o'clock news? Can we make that?

Senator EAGLETON. Do you want me to do it now?

Senator RUDMAN. I yield to the Senator from Missouri. I'm all done.

Chairman ROTH. Please proceed.

Senator EAGLETON. Mr. Wright, Senator Rudman has questioned you, and I think very ably so. He is an extraordinary, and I mean that, not in a cutesy way, extraordinary Senator and a lawyer. He has questioned you about impropriety, and he said he wanted to. He said he wanted to press you hard, and you gave him an answer. Senator Rudman views it as an impropriety, and you, in your own words, viewed it as a dumb thing to do and later said, well, maybe some people would view it as an impropriety.

I submit to you this, and I want your reaction. You are bright. You are well educated. You have had a responsible career in public service, various departments. You are prodigiously a hard worker; everyone says you are a 20-hour-a-day guy. Those Members of the Senate that know you personally think very highly of you. You have got some very, very good friends that admire you deeply and greatly in the U.S. Senate. And I daresay that there is more over in the House.

Thus, what has been said and what I am about to pose in the question does not come easily or lightly. I submit to you and ask for your comment that if a high Government official, indeed, the Deputy Director of OMB, had a large part of his net worth involved in a family oil and gas company, and that that oil and gas company was the lifeblood of his father's financial interests and if that high Government official was being bugged repeatedly by his father to intercede with the Department of Energy, specifically, ERA, Ray Hanzlik, and that a Government case had been commenced against that family oil company on September 14 in Kansas City, it is the Anchor case, and the commencement of that case created extraordinary anxiety amongst Joseph Wright, Sr., and Coty Dupre, as the record shows who took it very serious. They were very concerned, and that on September 23, 9 days after the commencement of the *Anchor* case, a flurry of phone calls takes place. These four calls take place between Coty Dupre, the head of Canal and the vice president of Anchor, 31-year confidant of Joseph R. Wright, Sr., known to Joseph Wright, perhaps not intimately, but certainly well known to him as a close friend of his father's in the oil business. This flurry of calls that takes place on the 23d, and there is a meeting already set up in Kansas City on the 24th wherein the Anchor Co., which had made an insulting offer—I think that is in the record—of $50,000 on the 14th, now ups the ante to a half a million, in a 10-day timeframe, and is prepared to go to that meeting and offer half a million dollars.

They are considerably more serious, prepared to be serious in the second meeting. The high level official has a conversation with the head of the regulatory agency that has life and death control over those two cases, Anchor and Canal. He brings his secretary in to hear part of the conversation, because he already had the phone to his mouth when she entered the room. She makes no notes of that conversation, unique as she testified it was, one in a lifetime, yet she made notes of the anonymous caller meeting. But she makes no notes of the Joe-Ray Hanzlik conversation; and that flowing therefrom, in fact, in the fact that Miss Ferko says that her recollection, after being heavily reconstructed, is that Joe met Ray Hanzlik at a cocktail party within a week or so a very sensitive timeframe of September 14 and September 23 and 24.

After that call takes place, the two cases involved in the Department of Energy fall off the cliff. The *Anchor* case is taken off by Lorenz in Washington. The PRO is never published in the Federal Register—the PRO Federal Register publication being the significant act that starts the clock ticking.

That the case is never heard of again up to and including today on Anchor; Anchor is still unresolved. And then the *Canal* case, the companion case, Anchor is worth $16 million, Canal is worth $20 million, lies in the grave going through eight or nine rewrites, rewrites, redrafts. It only suddenly begins to breathe when the Wall Street Journal and the inspector general start nosing around over there. Then it gets filed on April 18, 1985. These investigations going back as far as 1979. Then three witnesses testify under oath as follows:

One, two of them ex-civil servants, one a civil servant with guts, gutsiest guy in this room, Mr. Lynch, and I'll explain why. But three civil servants testify under oath as follows. In brief: Jackson says in the fall of 1982 or November 1982 to May 1983, he was at a meeting in Washington. Either Lorenz or Landesman or maybe Hanzlik, but he thinks more likely Lorenz or Landesman told him that a high Government official was interested in the *Anchor* case, and a line goes through the case. It is lined out, and then ultimately, Lorenz' name goes after the case. Those are his travel sheets and docket sheets that he brought to us, and they're in evidence.

Under oath, with no motive to perjure himself, someone has asked about what is the motive to prejure. What is the motive for Jackson to perjure himself? None. He liked Landesman. Landesman liked him. He said that's what he heard; that's when he heard it, and he's got the time sheets that back up that timeframe. Wehrle-Einhorn testified before his serious heart attack at the Dingell hearing; I wish he could have been here. I wish Senator Rudman could have seen him, because Wehrle-Einhorn says, that in early 1983, that he had this conversation with Lorenz and Landesman, one or the other.

They made comments somewhat similar to what Jackson heard, but there was a little, very specific one everyone will remember. It involves someone high up in the administration that could affect the budget of the Department of Energy. That is a tailor-made description. That is not a suit off the rack at Raleighs. That is a custom-made suit, Joseph Wright.

He testified under oath that at the Dingell hearing, no motive to perjure, no motive to perjure, considered a very bright man, ranked third in his class at Kansas University, Boston, and then Mr. Lynch, Mr. Lynch, the auditor, worked down the hall. He works down the hall now from Landesman, Lorenz, et cetera, working with them today. Talk about somebody having his life in jeopardy: Lynch. The price he may pay for telling the truth in future events will determine that.

But Lynch talked to Wehrle-Einhorn December 1982. Bobby Kammerman wrote an excellent memo, and did excellent work in this case. I must say that without Miss Kammerman, it would not have gone forward. She has that interview, and then the Lynch notes emerge, the Lynch notes. Until I read the Kammerman interview, I didn't know all that much that Lynch would produce, but

Lynch did produce a lot on the handling of the *Canal* case then the notes, the telltale notes, that the *Canal* case has been held up in Kansas City with respect to the Federal Register for 2 months, et cetera, et cetera. That has been discussed. Then Lynch, we took him through his testimony as to how the Canal case had been held up.

Then you throw in the phantom audit; talk about comedy, Senator Rudman, phantom computer; talk about high comedy, here is Mr. Number Cruncher, the greatest number cruncher in the Department, GS-15, can crunch a number any day in the week. Give him something, he will crunch it, and the key thing to crunch in this case disappears. "Sorry. I don't know why it ain't around. Never happened before."

It happened in the case pertaining to Joe Wright's family's company. That is pretty high comedy. Medium comedy is the left-handed female auditor. We have tried to find her. We have asked the Department of Energy to try to find her, the inspector general to try to find her. I don't know that she is a left-handed female auditor. That is what Cruncher says. Cruncher described that. He looked at the figures and said that. Maybe she is. We can't find her.

How she came up with these cockamamie figures. When Cruncher gets some honest, clean figures, it turns out that Jackson and Wehrle-Einhorn were about 90 percent. They reduced the case by $1 million. Talk about blasphemying the character of people; what has been said at this hearing about Jackson and Wehrle-Einhorn in absentia; about their ineptitude; Kansas City was always a bad office; their numbers were wrong.

The reason they aren't too liked in this room is they are the ones that heard about the high level official. So there it is. Mr. Wright, Jackson, Wehrle-Einhorn and Lynch, under oath, and this extraordinary chain of events that cannot be wished or washed away. Call it circumstantial evidence.

What happened after the Wright call, but you link in circumstantial evidence like this with three witnesses, swearing as to what happened, and the U.S. attorney for the District of Columbia has a case to go to the grand jury, just as Earl Silverman had a case to go to the grand jury. How else can this committee view it, Mr. Wright, with the events, the testimony, and the facts as I have stated?

Mr. WRIGHT. First of all, Senator, I don't accept the premise for the question, and I believe that one of the reasons we had for the hearing today, with all due respect, shows exactly the opposite of what you have just surmised. I think that was the purpose of the hearing today.

Senator EAGLETON. Feel free to elaborate on that. I took a lot of time in posing the question. You have as much time as you want to respond thereto.

Chairman ROTH. Have you completed your statement, Mr. Wright.

Mr. WRIGHT. Yes, I have, Mr. Chairman. I believe that the last 16 hours have completed my statement.

Chairman ROTH. I want to thank you for being here today, and you are excused.

At this time, I understand Senator Rudman wants 2 minutes.

Senator **Rudman**. Thank you, Mr. Chairman. I want to say to my good friend, and I mean that sincerely, my good friend from Missouri, Senator Eagleton, when he takes that chair at Washington University as a professor of law, I want to be there on the day he conducts his class on how to give a closing argument to a jury when all the evidence has gone sour, because I think he is an expert at it. [Laughter.]

I want to just summarize something here, because I have listened very carefully during this hearing. Because if there were wrongdoing here, I would join my friend from Missouri to ask the U.S. attorney to convene a grand jury, and he knows that.

There is nothing inconsistent in the testimony save one item: The only inconsistency in all the testimony we have had here today, amongst the civil servants and the former civil servants was that there was a failure of recollection between Mr. Jackson, evidently, Mr. Wehrle-Einhorn, and either Mr. Lorenz or Mr. Landesman as to whether or not a message was communicated to them vis-a-vis this telephone call. That is the only inconsistency.

Everything else that is said here is not inconsistent; it is not even contradictory. The fact is that Mr. Jackson and Mr. Wehrle-Einhorn, whose testimony I have read, and Mr. Lynch, have a different conclusion of the policy basis for the *Canal* case, and the Anchor case is in a different category altogether.

There has been no inconsistency here. I think we have had an abundance of truthful testimony. I have a great respect for Mr. Lynch. He is an auditor. He is not a lawyer. He missed the entire point that Mr. Landesman brought up today, which makes every good sense to me that Mr. Landesman was not about to bring the *Canal* case until its $600 million Cities case was at least on track.

Mr. Chairman, I am going to wind up, with an old saying in New Hampshire amongst trial lawyers and maybe they have it in Missouri, as well. It goes something like this: If you don't have the facts, pound the law. If you don't have the law, pound the facts. If you have neither, pound the table. And what we have heard here yesterday and today, Mr. Chairman, is a lot of table pounding.

I hope Mr. Wright finally has some peace from this kind of harrassment.

Chairman **Roth**. Thank you, Senator Rudman. We have reached the close of what I consider an extremely difficult hearing, a total of 3 days. It began on May 13, and at the end of that day, I agreed with the distinguished Senator from Missouri that the hearing would be continued after our staffs had the opportunity to make a full investigation.

I would like to point out that over 5½ months have been consumed in this investigation, and I instructed the majority staff to get the facts. Let them fall where they may. I will have to say that I think the distinguished Senator from Missouri's statement about Bobby Kammerman clearly demonstrates that is exactly what the majority staff did do.

I think it should be pointed out that the Chair has leaned over backward to permit every Senator to proceed with his investigation and questioning as he saw fit.

This is not a court of law. The rules of evidence do not apply, and we did permit leading questions as well as conclusions to be stated in the questioning. That is merely in keeping with what has been done in the past.

I would also point out that the list of witnesses—the witnesses who were here before us today were agreed upon by the majority and the minority, I just want to say that I have sat through these hearings. I have listened very carefully because I think the matter under investigation is extremely important. It involves the integrity, the reputation, the rightness or wrongness of an individual. As far as I am concerned, there is no factor more important than that, and I think those who would attack or accuse one of wrongdoing have the burden under our American system of jurisprudence to so show.

We have already discussed the question of the telephone call. So that I don't think much is to be gained by discussing that further. I think Joe Wright did make a mistake. I think the processing of the case against Canal was slow, slower in processing the case against Anchor, but there is no hard evidence that Mr. Wright's phone call influenced the handling of these cases. Everyone is entitled to make the inference that they may care to make as a member of this panel. but there was not, in my judgment, any hard evidence that the consequences in those two cases flowed from the phone call by Mr. Wright.

The three witnesses who worked on the cases who indicated that they had heard on one form or another of high level OMB interest in the case also testified under oath that they never experienced any undue influence in the handling of these two cases. I would just have to say that as I listen to Mr. Landesman, in particular, Ms. Ferko, Mr. Crowell and Mr. Lorenz, all of whom are civil servants and not political appointees, I was impressed by the substance of what they had to say.

There may have been some inconsistencies between Mr. Wright's testimony before the committee in May of this year and the results of the subsequent staff investigations, but none of these appear to be major in nature, particularly when one considers that we are reviewing actions taken some 2½ years ago. In fact, I would be suspicious if everything we heard fit together nice and neat, with no inconsistencies at all.

While Mr. Wright's original testimony undoubtedly could have been clearer, it is probably as clear as could be expected given the rushed circumstances under which he was first required to appear.

In conclusion, let me state that I believe the committee has produced a full investigation in this matter with plenty of time for both the majority and the minority to leave no stone unturned, and although I believe Mr. Wright erred in making the phone call, it is the judgment of the Chair that there is no cause to pursue this matter further.

The committee is in recess.

[Whereupon, at 5:54 p.m., the committee was adjourned, subject to the call of the Chair.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

SWORN STATEMENT OF
MR. GORDON W. HARVEY [1]
FOR THE
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

The sworn statement is submitted pursuant to a letter dated February 24, 1986, to my attorney from the Chairman and Ranking Minority Member of the Senate Committee on Governmental Affairs. The Committee letter was in response to a letter from my attorney, dated November 15, 1985, in which we complained of my not being allowed to testify before the Committee to correct certain disparaging and incorrect testimony and comments made about me at prior Committee hearings. This sworn statement conforms to Rule 15 of the Rules of Procedure of the Senate Permanent Subcommittee on Investigations of the Committee on Governmental Affairs.

The purpose of the statement, therefore, is to correct certain testimony and comments made about me at the full Committee hearings held on May 13 and November 5, 1985, concerning the Deputy Director of OMB. The impressions created by the incorrect comments and testimony tended to defame and otherwise adversely affect my reputation.

At the hearings the committee was left with the impression that I was responsible for starting and spreading the so-called "rumors" within the Department of Energy (DOE) that Joseph R. Wright, Jr., Deputy Director of OMB, had intervened improperly in DOE's pricing violation cases against Anchor Gasoline Corporation and Canal Refining Company. These firms, which were alleged to have violated DOE's pricing regulations by about $35-40 million, including interest, are partially owned by Wright and his family. Such impressions that I started the so called "rumors" are absolutely untrue.

I was informed in late 1984 by both Mr. David Jackson, then the Chief of DOE's Kansas City Office, and Mr. Robert Wehrle-Einhorn, a former employee of the Kansas City Office, that they had been told of a "high OMB Official's" intervention in the Anchor Case in 1983. Both said they did not know the name of Joseph Wright but they had been previously informed that the Anchor case was sensitive and was somehow connected to a senior official at the OMB. Mr. Jackson said he was told the connection involved the Number 2 man at OMB. Jackson also knew that someone outside the DOE had contacted the ERA about these cases. They cited Avrom Landesman and Milton Lorenz, two senior DOE employees, as the sources of the information.

My knowledge of Wright's intervention with DOE's Economic Regulatory Administration (ERA) did not occur until August 16, 1984 -- many months after the intervention was known and discussed within the ERA. On this date, Rayburn Hanzlik, Former Administrator of ERA, told me that Joseph R. Wright, Jr., had called him sometime earlier to express his unhappiness with the treatment his family's businesses had received from the Enforcement Office. Prior to joining the Office of Inspector General, I was the Chief of DOE's Office of Enforcement -- a responsibility that included prosecuting violators of DOE's petroleum price controls. Hanzlik did not identify the names of the firms Wright had called about.

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[1] The following statement was submitted to the Committee after the hearing. The Committee does not endorse or refute Mr. Harvey's claims.

Since I had initiated the enforcement proceeding against Canal and had transferred the jurisdiction of the Anchor case to Kansas City, I was generally familiar with these alleged violation cases. I did not learn until September 1984, however, that these were the firms that Wright had called Hanzlik about and that Wright and his family held a financial interest in these firms.

Therefore, I could not have started the so-called "rumors" about Wright's intervention. The intervention was being discussed within the ERA at least by early 1983, long before I knew. As the Committee knows, Wright made his call to Hanzlik in September 1982. Furthermore, I did not discuss with anyone, other than with those persons who had a "need to know", Hanzlik's August 1984 revelation to me that Wright had called him.

From the transcript of the May 13, 1985 hearing, it is apparant that some committee members believe that I am a "disgruntled" employee because I was found guilty of reprising against a Charles Gorsey for his alleged "whistleblowing". This is also untrue. I was found to be innocent of the whistleblowing charges that were alleged by Gorsey. The whistleblowing actions Gorsey complained of took place long before I joined the DOE's Inspector General Office. Furthermore, Gorsey's whistleblowing changes did not pan out.

Nevertheless, the clear and lasting impression that I had retaliated against a whistleblower was created by a false and misleading press release from the Merit System Protection Board (MSPB). The MSPB falsely asserted in the heading and in the body of its press release that I had been found guilty of retaliating against a whistleblower. This release did not mention that I had been found innocent of Gorsey's allegations that I had reprised against him for his "so called" whistleblowing.

Ms. Mary Ann Ferko, of the OMB, was permitted to testify about certain anonymous calls she and others had purportedly received concerning my actions at DOE. According to Ferko, the caller reported that I was in essence "out to get" Joseph R. Wright, Jr. because Wright had intervened and attempted to get me disciplined in a personnel complaint--a complaint that had been reopened by the Government after being closed for almost four months.

Ferko, in talking about one of the anonomous phone calls, alleges that the caller told her I was "given administrative leave to take a trip to either keep [my] head clear or just so [I] could concentrate on [my] case against Joe Wright". Ferko's assertions, whether they came from an anonomous caller or not, can be easily refuted by examining my leave and travel records or by testimony from Inspector General Richards. Sometime earlier, Richards had informed Wright that there was no truth to the "caller's" charge that I was doing anything at Energy that was in any way designed to get Joe Wright. Richards, like myself, was cancelled as a witness on the evening before the November hearings. In any event, this untrue remark about administrative leave and my travel speaks volumes about the "anonomous caller's" veracity and motives.

Certain members of the Committee also implied an impure motive on my part when I questioned, in my legal briefs, Wright's motive for his several interventions in my Merit System Protection Board Case. Wright, in his testimony before the Committee, acknowledged two of his interventions in my personnel case but described me as being ungrateful as he was attempting to help me. Inspector General Richards, however, testified under oath at my MSPB hearing that Wright had called to pressure him to discipline me. When Richards discussed with me Wright's call to him, no mention was made of Wright's intentions of helping me. In fact, the words Richards used to describe Wright's call was precisely the opposite of a helpful gesture. Richard further told me a few weeks before Wright called him that he had been informed by Special Counsel O'Connor that someone in the Government was out to damage my career.

In describing me as a "sour noter" and other remarks that tended to defame my reputation, certain committee members must have been reacting to non-factual information that had been provided to them. Much was made of the "so called" charges that I supposedly made against Wright. To set the record straight here is what occurred.

Wright, to my knowledge, interviened in my MSPB case by discussing the case with Richards, Martha Hesse, and two other senior officials at DOE. The Executive Order that establishes the President's Council on Integrity and Efficiency precludes Wright from getting involved in personnel matters. My DOE attorneys, who learned of these interventions also, questioned Richards about some of the interventions at my trial in November 1983. In my defense, exceptions were taken to some of Wright's interventions by my DOE attorneys in post trial briefs filed in January 1984. These attorneys worked for the General Counsel Office at the DOE. In addition to representing me, they represented the DOE in this case. These exceptions to Wright's interventions were repeated in subsequent briefs to the MSPB and the U.S. Court of Appeals for the District of Columbia. All of the briefs were filed before I or my lawyers knew of Wright's intervention at the ERA or of he and his family's financial interest in the Anchor and Canal firms. Certainly, knowing the facts, no one can honestly question my right or my attorney's professional judgment in questioning Wright's interventions as part of my defense in this highly questionable prosecution.

I would like to assure the Committee that I did not take any action before, during or after I became DOE's Assistant Inspector

General for Audits that were designed to harm Wright or that were inconsistent with the mission of the office I held. Additionally, I have never stated to anyone, as Ms. Ferko's testimony suggested, that I was in any way out to get Wright.

In late 1984, however, I did suggest to, Mr. Roy Taylor, Managing Auditor of the Inspector General team that was performing an audit of the ERA, that he look into the unusual delays in processing the Anchor and Canal enforcement cases. I specifically instructed Mr. Taylor that the delays by the ERA in processing the cases should be the focus of the inquiry. I took this action only after receiving corroborating evidence that the two cases had experienced unusual delays for about two years. The evidence of the unusual delays in the Anchor and Canal Cases was of a high quality nature.

In late 1984, Taylor began an independent investigation to assess the merits of the evidence that had been provided to me. During a January 3, 1985, interview with Avrom Landesman, then the ERA Deputy Special Counsel, Landesman asserted that the Inspector General's Office was being misused by inquiring into the unusual delays in processing the Anchor and Canal enforcement cases. According to the memorandum of this meeting, prepared by Mr. Roy Taylor and Mr. John Lucas, Landesman further suggested that the Anchor Case was selected "to get revenge for Gordon Harvey's treatment". Further, as recorded in this memorandum:

> "Mr. Landesman...asked if [Taylor and Lucas] had not heard that a high OMB Official had interceded in the Merit System Protection Board proceeding to get even with Mr. Harvey for his actions against Anchor? [Landesman] further, without waiting for a response, advised that this action to get Mr. Harvey was common knowledge in DOE."

Since the Committee was provided a copy of Taylor and Lucas's memorandum, this exchange with Landesman, which was witnessed by another ERA employee, may have led to the confusion by certain committee members about the intent of my instruction that Taylor pursue the unusual delays involving the Anchor and Canal enforcement cases. Taylor can verify that he was not instructed in any way to investigate or to otherwise do harm to Joe Wright. His inquiry focused on why the Canal and Anchor cases were not processed.

I have not made charges against Joe Wright other than, as discussed above, to take exception to his several interventions in my personnel case. Therefore, I categorically reject Landesman's charges that it was improper for the Inspector General to have pursued the unusual delays in these cases. My reason for instructing Taylor to pursue the unusual handling of these cases is consistent, in my judgment, with Congress's intent of reducing fraud, waste, and abuse in Government by establishing Inspector Generals in the various departments and agencies.

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RICHARD M. SHARP
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WILLIAM S. MOORE
JOHN TOWNSEND RICH
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J. MICHAEL GREENBERGER

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THOMAS J. MIKULA
D. EUGENIA LANGAN*
RANDOLPH LEE ELLIOTT
ROBERT N. STRASSFELD*
STEVEN J. HEYMAN*

* NOT ADMITTED IN D. C.

October 27, 1986

Received by
Subcommittee on Investigations
NOV 06 1986

The Honorable William V. Roth, Jr.
Chairman, Committee on Governmental
Affairs
United States Senate
Washington, D.C. 20510

The Honorable Thomas F. Eagleton
Ranking Minority Member, Committee
on Governmental Affairs
United States Senate
Washington, D.C. 20510

Re: Gordon W. Harvey

Dear Senators Roth and Eagleton:

I am writing to you again on behalf of our client, Mr. Gordon W. Harvey. As you will recall, Mr. Harvey was discussed extensively at hearings held by your Committee on May 13 and November 5, 1985. By letter of June 10, from Senator Roth, the Committee graciously agreed to include Mr. Harvey's sworn statement in the hearing record.

As a result of a recent decision of the U.S. Court of Appeals regarding Mr. Harvey's conduct, as discussed at the hearings, we are requesting one further addition to the hearing record. On October 7, 1986, the U.S. Court of Appeals for the District of Columbia Circuit handed down its decision regarding charges brought against Mr. Harvey by the Office of Special Counsel, Merit Systems Protection Board (copy of decision enclosed). The Court's unanimous decision completely exonerated Mr. Harvey of any wrongdoing. In its decision, the Court ordered all charges dismissed against Mr. Harvey and Mr. Harvey reinstated as the Assistant Inspector General at the Department of Energy.

It is our understanding that the hearing record has not yet been printed. Therefore, Mr. Harvey requests that the official hearing record be amended to indicate that by decision of October 7, 1986, the U.S. Court of Appeals for the D.C. Circuit held that the charges against Mr. Harvey by the Office of Special Counsel of the Merit Systems Protection Board should be dismissed and that Mr. Harvey be reinstated as the Assistant Inspector General of the Department of Energy.

We again thank you for your cooperation. We would appreciate receiving a copy of the hearing record once it is printed and available.

Sincerely,

John D. Aldock

JDA:dh
Enclosure